

Bribes no Perquisites :

OR, THE

C A S E

OF THE

EARL of *Macclesfield.*

BEING

Impartial Observations

Upon his Lordship's *TRIAL.*

Wherein the Nature of his *CRIME*, and the
ARGUMENTS Pro and Con are faithfully
Summed up, and represented to the publick
View, for general *Use and Information.*

WITH

Proper *Observations* upon the *Pleadings* of the
MANAGERS, and a *Rationale* upon the
Reasoning of his Lordship's Counsel.

By *GEORGE WILSON, Esq;*

Discite Justitiam moniti.

L O N D O N :

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OF THE
CASE
OF THE

Earl of Macclesfield.

AND
Impartial Observations
Upon the Lordship's Answer.

By the Hon. the Attorney-General,
in answer to the Lordship's Answer,
and the Lordship's Answer,
to the Lordship's Answer, and the Lordship's Answer.

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Impartial Observations UPON THE PROCEEDINGS

Against the

Earl of *Macclesfield*.

IT is my Intention in the following Pages, to do equal Justice to the condemn'd Lord, who is the Subject of them ; as well as to those Noble Persons, who, to the Honour of their Country, have found him Guilty : Thereby fully convincing all the World, That we live under the Administration of a Prince, whose only Aim is the Good and Welfare of his Subjects.

In Pursuance of which Design, on *Thursday May 6. 1725.* the Commons exhibited Articles of Impeachment against the Earl of *Macclesfield*, importing, That he “ not being satisfied
“ with his large and ample Revenue, nor re-
“ garding the Obligation of his Oath, or the
“ Duty of his high and important Office ; but

“ entertaining wicked and corrupt Designs and
 “ Views, to raise and procure to himself ex-
 “ cessive and exorbitant Gain and Profit, by
 “ divers unjust and oppressive Practices and
 “ Methods, whilst he continu’d in the said
 “ Office of Lord Chancellor, did Illegally, Cor-
 “ ruptly, and Extorsively take and receive to
 “ his own private Use *Great Sums of Money.*

What should induce this noble Peer, to lay himself under so black a Charge, is Matter of the greatest Surprize imaginable, especially when we consider the many Honours that were conferr’d on him by the Crown; as first, That the Dignity of his Post is the highest Office in the Nation, and wholly depends upon the most impartial and uncorrupt Distribution of Justice; all which he had inviolably sworn to maintain and preserve. Besides which, he shared many other Marks of Royal Favour; his Son⁺ *George Parker, Esq;* now commonly call’d *Lord Parker*, had a yearly Pension of Twelve Hundred Pounds, payable out of the Exchequer, during the joint Lives of His Majesty, and the said *Lord Parker*; determinable upon His Majesty’s making a Grant to the said *Lord Parker*, in Possession of the Office of one of the Tellers of the Exchequer, during Life, of the yearly Value of Fifteen Hundred Pounds, or upwards, which he was duly admitted to in the Year 1719, and doth still enjoy the same. The Earl himself, addition-⁺al to the Sum of 14000 l. given him to accept this Post, did also continue to receive an

ceeded to his Title, was a good Mathematician, and Vice President of the Royal Society.

an annual Pension of 1200*l.* and a further annual Allowance of 4000*l.* and many other Advantages, not included in the usual Salary, Fees and Profits belonging to this Office.

The Articles exhibited against him, together with his Answer, we shall fully consider in the Detail of this Narration, and now enter upon the Merits of the Cause, in considering the Arguments made use of *pro* and *con.* in this important Debate.

The Commons in their Replication strenuously maintain'd their Articles, That the Earl, " whilst he continu'd in the Office of Chancellor, did illegally and corruptly insist upon, and take of divers Persons several great and exorbitant Sums of Money, in Order to, and before their Admission into the Offices of Masters in Chancery; and that those Offices concern the Administration of Justice in that Court.

This, as they most judiciously observ'd, was a Crime of the deepest Dye; as striking at the very Root of Government it self; it being the Essence and Stability of Society, that Justice should be administred with Clearness and Impartiality, that the People may sit easy under the Wings and Protection of the Laws, and their Properties be guarded from unjust Invasions. They likewise add, That almost all the other Crimes and Misdemeanours of which the Earl stood accus'd, were subservient to this chief Design of amassing together vast and immense Sums of Money; and that they had a Tendency to advance the Price of
those

those Offices. Whether these were Acts of unjust Oppression, of willful Neglect, or of partial and unequal Administration of Justice; Whether they were Acts of open Violation of Duty, or of secret and private Intrigue, to elude the publick Justice of the Kingdom: These Arrows manifestly appear'd to be all drawn from the same Quiver, dipp'd in the same deadly Poison, and directed to the same Mark.

In Order to set this in the clearest Light, the Commons observe, “ That insufficient
 “ Persons were found out and pitch'd upon,
 “ to be admitted Masters of the Court, Men
 “ of small Substance and Ability; no ways fit
 “ to be entrusted with the great Sums of Money and Effects, lodg'd in their respective
 “ Hands.

+ Whereas, the natural Qualities and Endowments requisite to recommend Men to so great a Trust, ought to have been Honesty and Probity; the acquir'd ones, those of Knowledge and Experience: Without a due Mixture of these, it were very hazardous to admit any into such important Posts.

+ Thus was the Tryal open'd by the first Manager, Sir *George Oxenden*. This worthy Gentleman was seconded by His Majesty's Solicitor-General Sir *Clement Wearg*; who likewise observ'd, That the Nature of the Earl's Charge consisted of Illegally Selling and Disposing of the Offices before-mention'd; in using and practising many indirect and unjustifiable Methods, for the keeping up the Price of such
 Offices,

Offices, in Order to advance his own Gain. Well likewise did Mr. Solicitor observe, “ That the Justice of every Court not only “ depends upon the Uprightness of the Judge “ that pronounces the Decree, but likewise “ upon the Honesty and Uncorruptness of the “ lesser Officers, who are Assistants to him, “ and upon whose Reports and Representati- “ ons his Decrees are founded.

This he fortifies from a just Sense of the “ Legislature in the Reign of King *Edward VI.* + “ who, to prevent such a corrupt Bartering for “ Offices, wisely provided, That where any “ Office which concern’d the Administration “ of Justice, was procur’d for Money, the “ Office shou’d become void, and the Parties “ concern’d in the corrupt Bargain disabled “ from holding it.

From this Inference, Mr. Solicitor proceeds to distinguish between the Earl’s *Selling of Places for a Price*, and accepting of a *voluntary Present from the Purchaser*, which his Lordship declares his *Predecessors used to take*. Here may, indeed, some Difference be admitted, between a *Present* and a *Price*, but ’tis the *latter* his Lordship is charg’d with; nay even a *Price* fix’d by Him, insisted upon, hag- gled for and with Unwillingness paid by the Purchaser. Which Practice, as Mr. Solicitor unerringly concludes, is *Selling a Licence to abuse and defraud the Suitors of the Court, and making themselves pay the Price of that Licence*. The ill Consequences from whence + arising is very obvious, the least of them is a Delay

Delay of Justice from the Shifts and Excuses made use of by the *Masters* in *Chancery*, to continue in their Hands that Money they are allow'd to make a Gain by, and which probably, when call'd for, may be lock'd up by some *hazardous Contract*. But the most fatal Consequence is, the *Loss* which the Suitors are likely to sustain by it. The *Hazard* was all *theirs*, but the *Profit* belonged to the *Masters*. This, adds Mr. Solicitor, appear'd by an Accident sufficient to awaken the most engaged Attention.

+ When *Dormer* withdrew, all the Masters were alarm'd at it; his Misfortunes being wholly brought upon him by *Trafficking* with the *Suitors* Money, and lending it to Goldsmiths, in the Reign of South Sea, at Ten per Cent. Besides this, his Lordship is charg'd with endeavouring to conceal *Dormer's* Deficiency; and with making Orders for the Payment of Money out of his deficient Office, without regarding those Suitors, who were entituled to a Proportion of what was left. And that his Lordship did conceal *Dormer's* Deficiency; needs no other *Proof* than his not doing any one Act in Publick relating to it. On the contrary, after his absenting himself, upon Application being made by a Suitor, to have his Money transferr'd to another Master, he was inform'd from the Bench, *that his Fears* were rash, *that Mr. Dormer was only gone to take the Air, that all would be well*; and from this Time every thing was carried on with the utmost Privacy between his Lordship and the Masters.

p. 28.

Sir

Sir *William Strickland* next appear'd, to +
back the *Commons Charge* against the Earl, by
opening the *Evidence* against Him. This was
effectually perform'd by producing to the
Lords, an Account of what pass'd between
Mr. *Cottingham*, the Earl's Secretary, and
Broker, upon all Occasions of purchasing these
Offices. And that the Sum of 9075 *l.* which
Mr. *Bennet's* Mastership cost him, was the
very Sum which appear'd deficient, upon bal-
lancing the Accompts of his Office due to the
Suitors of the Court.

Then Mr. *Doddington* observ'd, that putting
up Offices of Justice to Sale by Auction, was
repugnant to the Dictates of plain Reason,
and consequently to the whole Sense and Spi-
rit of the Common Law of this Realm, which +
is founded upon Reason; and in this Repug-
nance to the Intent and Meaning of the Law
of the Land, lies the Earl's Offence as to the
Illegality of it. This Gentleman likewise ob-
serves with strict Justice, that it is a new Way ‡
of Reasoning made use of by the Earl of *Mac-*
clesfield to justify his own Faults by the Faults
of others, and extenuate the Danger and Ma-
lignity of a Distemper by the Extent and In-
veteracy of it.

After its having been fully prov'd, that his
Lordship barter'd for every Thing in his Dis-
posal, and that he took great Sums of 5000 *l.*
and small ones of a Hundred Guineas, with
what *Effrontery* could he declare, in his gene- +
ral Answer to the *Articles of Impeachment*,
That He never once had a Design, or View, or
B *Wish*

Wish to raise to Himself any exorbitant Gain or Profit, and appeals to the whole Tenor of his Life and Actions for the Truth of his Assertions.

This is a Demonstration how much the greatest Men are unacquainted with themselves, and how liable they are to Mistake when they talk of their own Actions, and there is not any Thing plainer, than that this inordinate longing after Gain, this Impotence of Mind where Money was concern'd, is such a *Constitutional Weakness* in the Earl of *Macclesfield*, that it has given a Tincture to every Thing which passed through his Hands.

The *Commons*, concludes Mr. *Doddington*, look upon these Practices so nearly to concern the Welfare of the *Nation*, that notwithstanding the great Part *they* bear in the *Constitution*, they have thought it indispensibly necessary to appear *Themselves* and demand Justice against *Him*.

+ — Then Sir *Thomas Pengelly*, His Majesty's Serjeant, acquainted the Lords, that he thought it proper to lay before them the *Oath* of a *Chancellor*, because, says he, the Noble Lord has forgot it, not only in his Answer, but in his Conduct. The Oath is establish'd by the Statute of the 12th of *Rich. II*, which enacts, *That the Chancellor, &c. shall not name or make any Officer, or Minister, of the King, for any Gift or Brocage, but make all such Officers and Ministers of the best and most lawful Men.* This Oath has been administer'd to, and taken by the noble Lord within the Bar.

Mr. *Lutwyche* Seconded the Serjeant, relating to this Oath, and they jointly proceeded to the Proof of its being *administer'd* to the Earl by Mr. *Eyre*. But his Lordship made most egregious Shufflings concerning the *Manner of Swearing*, and Mr. Serjeant *Probyn* + back'd him with a very trifling Objection, *That no Question is asked, nor any Answer made when Privy-Counsellors kiss the Bible.* Upon which Lord *Lechmere* ask'd this pertinent Question, Whether there is not an Entry or *Memorandum* made upon Record in the Court of Exchequer of an *Oath* taken by *Them*? Mr. *Eyre* answer'd in the Negative. But Mr. *West* judiciously clos'd the Debate, by observing, That the *Statute* prescribes that an *Oath* shall be particularly taken; and submitted it as a Proof to the Lords: For undoubtedly, as the Bible was kiss'd after reading the *Statute*, the *Oath* was in all Honour and Conscience as much implied in the Silence of the *Taker*, as if he had repeated every Word himself. Mr. Serjeant *Pengelly* next proceeded to the Proof of the *Oath* taken by the *Masters in Chancery*, and the *Commissions* granted to them from *Edw. VI.* to this Time. These were produc'd by Mr. *Paxton*, who had examin'd them by the *Records*. Then one Mr. *Strange* ask'd Mr. *Paxton*, a Question in the *Hibernian* Stile, Whether the *Commissions* were upon *Stamps*? meaning, I presume, if the *Stamps* were upon them; and was answer'd in the Affirmative. I cannot help observing, and allowing at the same Time, that Mr. *Strange's* Question carries

little too sharp. for the Q. certainly meant whether the Com: were on stamp paper. + Our Author is a

an equal Weight with Mr. Serjeant *Probyn's* former *Objection*, that upon *administring* the *Oath*, nothing was *asked*, nor any thing *answer'd*. Now I will ask this *Counsel*, learned in the Law, one very plain Question, ---- If *nothing* was *ask'd* what Answer could be made? Happy must that Man be who has such *strange* Advocates --- *par nobile fratrum*.

*A few Run.
Tp. 58.*

Some of the *Commissions* produc'd by Mr. *Paxton* being read, Mr. Serjeant *Pengelly* gave it as his Opinion, That it was not necessary to go thro' them all; unless desir'd by the Earl: And next requested, that Mr. *Meller* might be permitted to give the Lords an Account of the Nature and Manner of executing the Office of a Master in Chancery, in order to which he was sworn, and afterwards declar'd, That he was admitted the latter End of the Year 1708, and continu'd so 'till July 1720; that the *general* Business of their Post was to digest all Matters referr'd to them, by way of Report for the Use of the Suitors of the Court: And that their *particular* Business was to Tax all Bills of Costs, and by them adjusted what was to be paid: Likewise, that all their Reports are made to the Court, to the Lord Chancellor, or the Master of the Rolls, to make a final Order upon them. This, Mr. *Meller* averr'd to be the sole Discharge of his Function.

After this Account given of the Office of a Master, some very insignificant Questions were asked, merely for Question sake, by the Earl's Counsel, especially by Mr. *Strange*, who,

who, in my humble Opinion, will appear to every Reader to be the strangest Interrogatorist that ever pleaded in any Cause of Consequence. But Mr. Serjeant *Pengelly* clos'd all, with observing, That there was not any other Evidence requisite, as to the *Duty* of a *Master*, than what had been accounted for by Mr. *Meller*, and the Commissions produc'd by Mr. *Paxton*; and therefore went on to open to the Lords what were the *Profits* of the Office of Lord *Chancellor*. The usual Profits, exclusive of all the extraordinary ones made by the Earl, is 8000 *l.* a Year, so that there is no Occasion to use other Means: Yet Mr. Serjeant call'd upon Mr. *Pynsent* for the Proof of one gross annual Sum of 1500 *l.* a Year paid by Him to the Earl, out of the *Hanaper-Office*. Mr. *Pynsent* being allow'd by his Lordship to be a *very honest Gentleman*, answer'd in the Affirmative, That he believ'd he had paid 13 or 1400 *l.* a Year, but was certain that he had paid above 1000 *l.* a Year. This his Lordship readily admitted, adding, That it was his own Opinion, he receiv'd of Mr. *Pynsent* 1100 *l.* a Year. Mr. Serjeant said, he would readily take the noble Lord's Admission, but apprehended it to be a reasonable Addition to the Salary of his Office. Then Mr. *Bennet*, a Master in Chancery, was call'd upon to prove the Payment of 100 Guineas to his Lordship, for admitting Mr. *Hammersey* as Clerk of the *Custodies*, upon his Surrender thereof, tho' it was really an Office in the Gift of the Crown. Thus ended the Proceedings of the First Day.

Friday,

+ p. 33.

2^d. Friday, May 7. Mr. Serjeant Pengelly acquainted the Lords, That the Managers would now proceed to farther Evidence relating to the corrupt taking of Money on the Disposal of the Offices of the Masters in Chancery. In order to which, Mr. Kynaston was sworn, and gave an Account, that he was admitted a Master on the 9th of August, 1721, for which Admission he sent to Mr. Cottingham, his Lordship's Place-Broker, 1500 Guineas. Mr. Thomas Bennet was next sworn, and declar'd, That he paid the same Sum to the same Broker, for his Admission, June 1, 1723, who talking with Mr. Cottingham in the Beginning of this Transaction, in hopes to save something, he reply'd quick upon him, --- Sure, Mr. Bennet, you won't go to lower the Price: This, it seems, was the Hall-Mark, and all Comers were to pay alike for this Stamp of Authority, whereby they were impower'd to strip the Widow and the Orphan. Mr. Serjeant Pengelly desir'd Mr. Bennet to give the Lords an Account of the Conversation he had with the Earl upon his Admission: He said, at that Time, my Lord was in his Bed; that he had not any Conversation with him before he was sworn, but that afterwards my Lord call'd to him, shook him by the Hand, wish'd him Joy, and said he had a Respect for his Father, Serjeant Bennet, his old Friend and Acquaintance, and the Family;

+ p. 27. and, said he, You are sworn in by a dying Chancellor: Being, doubtless, sensible that he was in the same State with the King in Hamlet; that he had all his Imperfections on his Head, and

dreaded

dreaded to be *call'd to an Account*: But Mr. Bennet comforted him with the sincere Compliment, to be sure, of hoping *that his Lordship would live a great many Years*. This appears by the Sequel, for Mr. Cottingham asserts, that the Earl was *in so dangerous a Condition* about the Time of Mr. Bennet's being admitted, that Dr. Mead told him, if his *Distemper* had not a *Turn*, he thought he could not live 24 Hours; but providentially, within that Space, comes Mr. Bennet with 1500 Guineas, and the *Illness* being purely *Midasian*, a *Golden Antidote* is never known to fail; for Mr. Cottingham adds, that upon meeting Dr. Mead at the Earl's the next Morning, he told him that his Lordship's *Distemper* had a *Turn*, and he might *get over it*, which he accordingly did, and pursued other *Admissions*. +

Mr. Lutwiche next desir'd of the Lords, + that Mr. Elde might be sworn, which being done, he gave an Account, That upon the Death of Mr. Fellows, he applied to the Earl himself, and made an Offer of 5000 *l.* to be admitted Master in his Room; and that his Lordship us'd him with so much Frankness as to declare, *He would treat with him in a different Manner than he would with any Man living*; --- but that *He and I must not make Bargains*. Mr. Elde farther declares, That when he acquainted Mr. Broker (*Cottingham*) with what had passed between him and the Earl, as to 5000 *l.* Cottingham answer'd, *Guineas are handsomer*. Willing therefore to do the Thing, pursuant to Mr. Cottingham's Advice, in the
handsomest

handsomeſt Manner, Mr. *Elde* put the *Gbelt*, 5000 Guineas, into a Dutch Basket, took a Chair, went to the Earl's Houſe, and delivered the Basket to *Cottingham*, who carried it up Stairs into his Lordſhip's Study, and brought down Word he had deliver'd it. Mr. *Elde* likewise ſays, That *my Lord treated him, and ſome Members of Parliament, in a very handsome Manner; and that after Dinner he was ſworn in before them, the Firſt Day of February, 1723-4.*

Then Mr. Serjeant *Pengelly* mov'd the Lords, that Mr. *Thurston* might give an Account of his *Admiſſion*: To which Mr. *Thurston* answered, That it was on the 5th of *Auguſt*, 1724, upon the Death of Mr. *Borret*, that the Counteſs of *Maccleſfield* was the fair Agent he made Uſe of, and that in a Viſit paid her Ladyſhip at *Kenſington* one Morning, he left upon her Table Bank-Notes, to the Value of [†]5250 *l.* and in Two or Three Days after he was ſworn in to the Office.

+ Mr. *Strange*, one of his Lordſhip's Counſel, is ſo merry a Mortal, that I am always uneaſy when he is out of my Sight. He very gravely asks Mr. *Thurston* --- Whether he apprehended that the Counteſs of *Maccleſfield* was acquainted with the Contents of what he left upon her Ladyſhip's Table? To this Queſtion of ſuch grand Importance Mr. *Weſt* asks the ſaid Mr. *Strange* a much more Significant One, --- ſince, ſays he, Mr. *Strange* hath ask'd concerning Mr. *Thurston's* Apprehenſion, I deſire he may be ask'd another Queſtion of the ſame

same kind, which is, --- Whether he, this strange Querist, apprehended Mr. *Thurston* would have been admitted, if he had not left the Money? To which this Intelligent Gentleman, who is really worse at *replying* than he is at *demanding*, answer'd and said *no-thing*. But indeed Mr. *Thurston* honestly replied, to Mr. *West's* Question for him, That he did not apprehend, if he had gone without the Money, he should have been admitted.

Mr. *Onslow* now observing, That the Commons had made good their Charge against the Earl of *Macclesfield* of *extorting* many great and extravagant Sums of Money, for the Admission of several Masters of Chancery into their Offices: He acquaints the Lords, That the Managers would next proceed to detect many corrupt Practices used by his Lordship to advance and encrease the illegal Gain, arising to himself, from the Sale and Disposal of those Employments: And that he admitted several Persons to those Offices who were of *small Fortune and Ability*, and highly unfit for so great a Trust as was to be placed in them. + Second Ch.

The Fortunes, *my Lords*, of Orphans and Lunaticks (says that learned Gentleman) are, from the Compassion of our Government, a Part of the Care of the Court of Chancery; and have been lodg'd in the Hands of the Masters, as a Place of *Sanctuary*, 'till the Owners should become capable of managing their Estates themselves: When they come, *my Lords*, to require their Fortunes, He, who was the Supreme Judge in a Court establish'd

for their Relief; *He*, who was the Great Guardian of Infants and Lunaticks, will be found to have *permitted* an Advantage to be taken of the *Weakness* of the *One*, and the *Misery* of the *Other*, to render their *helpless Condition* a Means of their *Ruin*, instead of their *Protection*. This, *my Lords*, is the Nature of the *Trust*; and the *Abuse* of which will demonstrate how little *his Care* has been, whose Duty it was to provide Persons of Integrity, and responsible Men, for the Execution of these Offices; but *who*, *my Lords*, unfortunately for the *Suitors*, and to the dishonour of the publick Justice of the Kingdom, *presided* Seven Years in the Court of Chancery; + in which Time, a *Deficiency* of above *Four Score Thousand Pounds* has happen'd upon the *Masters* by him admitted: Some of them were entrusted with *Forty, Sixty*, and one of them with a *Hundred Thousand Pounds* in Cash and Securities; and yet, *my Lords*, no other Use was made of This, but to enhaunce the *Price* of the *Office*, when it was to be *Barter'd* for the Benefit of the *Earl*: And the Argument used to bring up any Person to the *Rate* the *Earl insisted* on, was the largeness of the Sum to be transferr'd to the Purchaser. From such a Procedure, justly concludes Mr. *Onslow*, is his *Guilt* without Measure, who has thus brought a Disgrace upon his Country, by prostituting one of its highest Courts of Justice to his own *Avarice and Corruption*, to the *Rapine* and *Corruption* of his inferior Offices, and to the *Undoing* of those, who, by the Constitution

tution of the Kingdom, have been forc'd into his Power.

Mr. *Palmer* seconded Mr. *Onslow* to the same Effect, and acquainted the Lords, That they should leave the Proof of these Facts to the Evidence; which Vouchers, by Mr. *Paxton*, were deliver'd in accordingly. The several Orders made by the Earl being read, and the Evidence fully proved by Mr. *Thomas Bennet*, the last Person examin'd upon this Head, and who frankly own'd, That *All he had in the World was not worth so much as he paid for his Admission*. Mr. *Bennet* likewise declared, That *he mortgaged his Estate for more than it was worth*; upon which Mr. Serjeant *Probyn* (Brother Counsel with Mr. *Strange* for the Earl) would have ask'd Mr. *Bennet* this wise Question, ---- Whether he knew at that Time, that his Estate was not worth so much as it was mortgaged for? But to a Demand so impertinent, the Lords said, --- No, No.

Mr. Serjeant *Pengelly* observing, That these Facts were as clearly and as fully prov'd and substantiated as it was possible: And that tho' several Masters were entrusted with 40, 50, or 80,000 *l.* they were not of any competent Substance, not really worth what they paid for their particular Places. This being sufficiently made good, and depending, says Mr. Serjeant, upon the Examination of the several Witnesses, we will take up your Lordship's Time no farther.

Thus ended the Second Day.

3^d. D. — Saturday, May 8, 1725. Mr. *Gibbon* open'd this Day's Proceedings with a Charge against the Earl, in that his Lordship, upon Mr. *Dormer's* absconding, did endeavour, by many indirect Practices, to conceal from the *Suitors* of the Court the true State and Condition of his Office ; and did falsely and deceitfully declare, That Mr. *Dormer* was only gone into the Country, that he would return in a little Time, and all would be well. My Lords, says this Gentleman, we have beheld that Minister of Justice, who should be the *Guardian* of *Orphans* become their *Oppressor* ; the *Keeper* of the *King's* Conscience prostituting his *own*, and the Dignity of his high Station, to an ignominious *Traffick* with the best Bidder, and employing the *Scales* of *Justice* in the Business of an Usurer.

Then Mr. *Lutwyche* call'd several Witnesses to prove, That the Deficiency of *Dormer's* Office (*ad Val.* 25000) was, by many indirect Practices, endeavour'd to be conceal'd. Mr. *Thompson*, the first Witness call'd upon this Occasion, declares the *Deficiency* to have been 25,878 l. 16 s. 1 d. 2 q. Then Mr. *Edwards*, Successor of Mr. *Dormer*, encreas'd it to 1500, which was not brought into the Account when it was stated. After reading the Vouchers, relating to the Proof of several fraudulent Compositions made by Mr. *Dormer* with *Wilson* the Banker, &c. Mr. Serjeant *Pengelly* desired the Lords to observe, That in these Proceedings, *the Earl himself* was doing one Act which makes a Deficiency ; that is, compound-
ing

ing a Debt *due* from *Wilson* to *Dormer* : Yet the noble Lord declar'd, That he never knew of any *Deficiency*. And by an Order made in Court, pronounc'd by Himself, he then did direct, That a Master should enquire if there was any *Deficiency* in Mr. *Dormer's* Office ; so that the publick Acts now produc'd will be sufficient to prove the Notice the noble Earl had of this *Deficiency*, and that even he made Part of the *Deficiency* himself.

Then Sir *John Rushout* judiciously open'd + to the Lords, That the Crimes, hitherto, charg'd upon the Person at the Bar, did not proceed from Mistake, or meer Negligence ; altho' such would have been Faults not excusable in a Person plac'd in so high a Station, but that they were the Effects of Art and Contrivance, form'd to carry on and promote a corrupt and illegal Gain to himself : It being very obvious for him to reflect, that if such a *Deficiency* was publicly known, which by several Methods he made use of to cover and conceal, none would ever after purchase a Master in Chancery's Place, at least ; not at such exorbitant Prices to which the Purchase had lately been rais'd. This was like to put a Stop to that Branch of the Revenue which had yielded so plentifully, and prov'd so beneficial to his Lordship. The Contrivance therefore, is to oblige the Masters, who had already paid for their Places, to pay again towards making good this *Deficiency*, and by an artful drawing them to a Compliance in this Point, to conceal and continue the Mischief. This learned Gentleman

+ Gentleman, goes on to prove the next Charge against the Earl, *viz.* That one *Elizabeth Chitty* having obtain'd an Order of the 17th of *March*, 1723-4, whereby *Mr. Edwards*, Successor of *Mr. Dormer*, was order'd to pay 1000 *l.* Part of a very large Sum due to her, which had been paid into *Dormer's* Hands: *Mr. Edwards* complain'd of this as an Hardship to him, who had never receiv'd the Money; upon this, the Earl would have perswaded the rest of the Masters to pay the Money, to prevent a *Parliamentary Enquiry*, and they refusing, he paid it himself for *Mrs. Chitty's* Use; with Intimations however, that she must not expect any more of the 10000 *l.* which had been paid on her Accompt into *Dormer's* Hands. Both the Guilt and Boldness of the Offender is Matter of the greatest Surprize! That the Person, who is so sensible of his Crime as to tell the Masters *it* would affect both *Himself* and *Them*; who discerns the monstrous Consequences of the Mischief before him; who foresees the Punishment of that Crime by a *Parliamentary Enquiry*; that this Person, instead of applying Remedies to the Evil, should use little Artifices only to conceal it.

It is very strange, that the Earl now under Prosecution, who has been so many Years Witness of your Lordship's great Integrity and Wisdom, should not thereby be deterr'd from attempting what might subject him to your Censure; or that he should hope, by the Artifice of Words, and loose, general, evasive Expressions;

Expressions ; by such Fig-Leaves as these, to hide himself from the Eyes of impartial Justice.

Many other nervous Reflections being made upon the Earl's most notorious Male-Administration, particularly this gross Connivance in attempting to conceal *Dormer's* Deficiency ; it was, among other Observations justly remark'd, That " Crimes committed by a Lord
 " Chancellor are capable of no Aggravation ;
 " his Station enhaunces his Guilt. The Managers having gone thro' and made good their several Charges against the Earl thus far, Mr. Serjeant *Pengelly* acquainted the Lords, that that they should call no more Proof to them.

Thus ended the Third Day.

Monday, May 10, 1725. The Proceedings of this Day were open'd by Mr. *Plummer*, viz. My Lords, the particular Province assign'd me in this Prosecution, is to make good this Charge. --- " The willful Neglect of the
 " High Trust repos'd in the *Chancellor*, that
 " he ^{did} not restrain the *Masters* from traffick-
 " ing with the *Suitors* Money and Effects, but
 " did permit and encourage that Practice, tho'
 " he was advis'd to put a Stop to it, and fully
 " inform'd of the Dangers which were then
 " likely to ensue, to the great Loss and Injury
 " of the *Suitors* of the Court of Chancery. Mr. *Plummer* ask'd Mr. *Lightboun*, upon his
 " having declar'd that *the Chancellor's Doors and*
Ear were always open to him, this very pertinent Question, If he ever laid before his Lordship the Expectations of the World, that he would reform these Abuses and Grievances?

To

+ To which that Gentleman return'd this ~~his~~ honourable Answer, That he had often mention'd to the Earl, and press'd it rather more frequently than became him. I was astonish'd, says he, to be so troublesome, and I was surpriz'd that my Lord did not do something in it; tho' I soon found he would not do any thing. However, I continu'd to persevere in pressing it; and expressly mention'd the great Inconveniencies the Court would be run into, for want of a proper Regulation, and with what an ill Grace we could apply to his Successors to redress these Grievances, in Case his Lordship grew weary of the Fatigue of Business, and quitted the great Seal; that they would tell us, we had long acquiesced under them, and that his Lordship having not so much as look'd into them, they would not care to meddle or interfere in it. I press'd it home to his Lordship, and thought he made Doubts and Difficulties where there were none. Indeed I thought in this his Lordship wanted his usual Resolution, and almost ventur'd to say so; (tho' I know not whether it is very proper to mention it) but I did take the Liberty to tell his Lordship, that if he did not redress these Grievances, unless my Lord *p. 32.* *Lechmere* succeeded him, I despair'd of seeing them settled on any better Foot. --- Thus ended the Declaration of a truly honest Man.

Then Mr. *Lightboun* being ask'd by the Earl's Counsel and Himself some trifling Questions, of what were ask'd others, *Why's*, *Wherefore's*, and such like *Impertinencies*, not any

any Thing, in the least, to the Purpose, Mr. *Lightboun* withdrew, with an honourable +
Plaudit.

Then Mr. *Holford*, at Mr. Serjeant *Pengelly's* Motion, being call'd, was ask'd, Whether he heard of a Proposal made by Mr. *Lightboun*, and whether it was made publick? To which that Gentleman frankly answer'd, That +
 Mr. *Lightboun* and *He* had a great deal of Dis- p. 63.
 course about the Condition and Circumstances of the Court of Chancery, and the Confusion Mr. *Dormer's* unfortunate Accident was like to create. And especially as to the Matter of the *Securities*, which was the greatest Power a Master was trusted with, for *They* being above Three Parts in Four of the whole Trust, if there could be a Way found out to secure *that*, it would be a taking away Three Parts in Four of our Trust, and consequently would not leave so great a Power in the Masters; but as long as they were taken in the Name of one Person, and no Trust declar'd, he could dispose of those Things, and no Body could hinder it. And Mr. *Holford* farther added, That he thought the Propositions advanc'd by Mr. *Lightboun*, for a Regulation of these Grievances, were very right, and put upon as good a Foot as they could possibly be.

Mr. *Kinaston* next appear'd on this Debate, and likewise declar'd to the Lords, That there were several Meetings among the *Masters*, and Proposals made to settle the Matter of the *Securities* so, that it should not be in *their* Power to dispose of them. Then Mr. Serjeant +

Pengelly observ'd, That this sufficiently prov'd the Notice the Earl had of the *Masters* trafficking and dealing with the *Suitors* Money; and that there was not any Necessity of calling any farther Witnesses for the Proof of this Fact.

+ Then Lord *Morpeth* seconded Mr. *Plummer*, and proceeded to open to the House, That pursuant to an Enquiry directed by his Majesty to be made in *November*, 1724, it was expected, that proper Methods should be taken for the Security of the *Suitors* Money, but that the *Earl*, in order to obstruct the same, and prevent a *Parliamentary Enquiry* into the State of the *Masters* Offices, did first advise them to assist each other with Money and Effects; and for their Encouragement, represented, That if *they made a bold Stand now*, such an Enquiry might be prevented. In the next Place, That the *Earl* perswaded several of them to make *false Representations* of their Circumstances, by adding a *Subscription* to their *Accompts*, importing, that they were willing to answer the Effects in their Hands, tho' the Earl then knew the contrary; and that several of them, by his Advice and Direction, did supply others with Money and Effects, to make a *false Show* and *Appearance* of their Abilities. These Facts, continued his Lordship, contain in themselves the vilest Deceit and Treachery, heighten'd and aggravated by the wicked Purposes for which they were contriv'd; First, to have misled the Council-Board into a groundless Belief of the
Masters

Masters *Sufficiency* to answer the *Suitors*; and on this Foundation he built a *more impious*, but *more fatal* Project, the preventing a *Parliamentary Enquiry*. ---- Seven Years, and more, +
 had past since he was made Lord Chancellor, Three Years since *Dormer's* Deficiency, without One honest Thought for any Thing that has yet appear'd, or One sincere Step taken by him for the Honour of the *Court*, or the Safety of the *Suitors*; his Behaviour fully appears to have been a Series of Extortion and Oppression, constantly attended with the vilest and meanest Artifices to keep it secret: The King's Paternal Goodness was most notoriously abus'd by him who was intrusted to dispense it; and that Fountain of Justice polluted, which he now dares to name in his Defence. It was a remarkable Law, concludes Lord *Morpeth*, in one of the wisest *Grecian* Governments, arising from their Dread and Abhorrence of a corrupt Judge, ---- *That no Man, bred up to Merchandize, should be admitted into any Office of Judicature 'till he had quitted his Mercantile-Employment for at least Ten Years; and the Reason was, because the Fingers of Merchants had been too much used to Traffick.* +
 But the *Earl's* Administration has appear'd to have been one continued *Pyritical-Trade*, during the Course of which, he has prey'd alike upon *Masters* and *Suitors*; his craving Appetite was in no sort check'd by the Approach of *Death*; and *the Hand of a dying Chancellor*, p. 14.
 as he express'd himself to Mr. *Bennet*, was open to receive that *unjust Gain* he had so plentifully

tifully fed upon in *full Health*; yet from the unwillingness, and other conscious Circumstances, with which he has at several Times refunded some Parts of his extorsive Gains, though the *Guilt* is not *lessen'd*, his Lordship is thereby *Self-condemn'd*. And the *Methods* he has us'd from Time to Time to excuse and cover his *Crimes*; tho' they were the natural Refuge of an obstinate unrelenting Mind, yet are *they* more heinous than the *Crimes* themselves. The Offences of the Impeach'd Lord surpass all Belief, and are too big indeed for the ordinary Hand of Justice; but the *Commons* have by this Time, I presume, convinc'd his Lordship, and his Example will, I hope, convince the World, that no Offender, how great or subtile soever, can escape their Justice, of which this Proceeding will be an eternal *Monument*, as well as of the *Shame* of the unfortunate Earl.

+ Well was it likewise observ'd by Lord *Morpeth*, That the great Chancellor *Bacon* frankly submitted to their *Lordships Ancestors*, tho' he did indeed urge it as no small Excuse for himself, that *Bribery and Corruption were the Vices of the Times*; but the *Commons* rejoice to find, that the Earl now in Judgment before *them*, has no Ground to claim the same Excuse.

The Admonitions left by that Penitent great Man, and the just Punishment he suffer'd, have, it is thought, conduc'd to prevent the like Evil for near a Century past, tho' they had not an immediate Effect: For it is recorded, That some Time after his Sentence in Parliament,

liament, meeting the Earl of *Middlesex*, then Lord Treasurer, whom he suspected to have been instrumental in his Disgrace, discoursing with the Earl, he recommended it as a *Rule* to him and all great Officers, to be observ'd, *To remember a Parliament will come.* And it may be farther remark'd, That tho' Lord *Bacon* had not the *Spirit* of *Divination*, and tho' the *Treasurer* despis'd and laugh'd at his Advice, yet, within Two Years after, the *Treasurer* also was condemn'd in Parliament for Bribery, Extortions, Oppressions, and other grievous Misdemeanors. +

These elegant Observations of Lord *Morpeth* were back'd by Mr. *Snell*, who remark'd, + That hitherto the *Accusation* against the Earl of *Macclesfield*, has generally run upon *Corruption in the Sale of Offices*, *Extortion*, and a *Series of foul Practices* to cover and conceal the *Deficiency in Dormer's Office*, which had drawn upon him an *universal Cry* for Redress. All the little Arts, that had been play'd over and over again upon the *Masters*, either by applying to their Hopes or Fears, as Opportunity offer'd, had prov'd ineffectual; and some other *Expedient* must be found out, some new Stratagem invented, to quiet the Clamours of the *injur'd Suitors*. What this *Expedient* was has been recited, *viz.* To represent their Circumstances in a false Light by a *Subscription* to each other, thereby endeavouring to solder up all *Deficiencies*. To this, Mr. *Snell* adds, that the *Earl's* Defence is nothing more than a *poor and mean Prevarication*: I will

will therefore, says he, conclude with a Word of Advice to this noble Earl out of the Scriptures, *That he shall receive no Gift; for a Gift blindeth the Wise, and perverteth the Words of the Righteous*: Which Text may, indeed, be, with the utmost Justice, apply'd to the Earl's *insatiable Appetite after illegal Gains*, which he is pleas'd to mis-call *Voluntary Presents*, and for which all honest Men will ever entertain the utmost Abhorrence.

After the several particular Enquiries, relating to the *Subscriptions* among the *Masters*, had been gone thro', and fully prov'd as a notorious Collusion to blind the *Suitors*: Mr. Serjeant Pengelly desir'd, that Mr. Thompson might give the *Lords* an Account, upon the Inspection and Examination of those Accompts, how much the *Deficiency* of the several *Masters* amounted to.

These *Deficiencies* Mr. Thompson had collected from the Reports made to the Committee of Council, and which that Gentleman faithfully deliver'd in as follows, *viz. so much as the several Masters stood charg'd with by their own Accompts*, and did not *lock up* or produce proper *Securities* for, he justly accounts a *Deficiency*; according to which Estimate,

	l.	s.	d.	q.
Mr. John Bennet's Deficiency amounts to	017,541	15	10	0
Mr. Conway's Deficiency in his Cash,	010,039	04	04	2
Mr. Thomas Bennet's	009,075	00	00	0

The

l. s. d. q.

The Total of the Deficiency of the present Masters, is - - - - - } 067,114 : 11 : 05 : 3

The Deficiency of Mr. Borret's Office, - - - } 012,050 : 10 : 01 : 2

Mr. Dormer's Office, - - - } 105,043 : 17 : 08 : 3

But Mr. Conway, while his Accompts were under Examination, sold 2000 South-Sea Annuity, and 3500 South-Sea Stock; and of the Money arising thereby, he paid to the Suitors, to whom such Annuity & Stock did belong, no more than 2,593 l. 9 s. 3 d. so that his Deficiency is encreas'd by the Sum of - - - - - } 003,550 : 00 : 00 : 0

somewhat more or less, according to the Price he sold at. } ,

Mr. Serjeant Pengelly called another Witness, (Mr. Sanderson) who prov'd a farther Deficiency upon Dormer of - - - - - } 002,000 : 00 : 00 : 0

This, my Lords, (said Mr. Solicitor General) is the Sum of the Accompt we had to produce

produce of the *Deficiencies*, notwithstanding the *Masters* represented themselves as able to pay the *whole*: Tho' the *Security* some of the *Masters* have given, will not, we apprehend, be sufficient to pay for *Half*.

+ R. 21. - + Then Lord Lechmere ask'd Mr. Thompson, Whether his Computation of the *Deficiencies ad Val.* 105,000 l. were taken from the *Voluntary Accompts* of the *Masters*; or whether any of the *Suitors* were concern'd therein, or have been Parties to such *Computations*?

That Gentleman replied to this noble Lord, That he took them from the Master's *Voluntary Accompts* only.

+ The *Commons* apprehending, that they had produc'd a very full and convincing Evidence, in Maintenance of their *Impeachment*, Mr. West, in pursuance of their Command, made a most judicious and concise Recapitulation of the whole: Wherein, after exhibiting the *general Charge* against the *Earl*, he well observes upon that "unaccountable Attempt, to quibble away the Sanctity of an Oath, and to represent it as a meer Ceremony and Form, for no other Reason, but because it was read to him in *French*, and when he kiss'd the *Bible*, his Lordship and the Clerk said nothing to each other." And having gone thro' all the *other Particulars*, advanc'd with a Clearness and Perspicuity peculiar to his Pen, he addresses himself to the Peers with such great Candour, as to conclude in these Words, "Notwithstanding all the severe Things which have been said upon this Occasion, we hum-

bly

bly hope your Lordships will be of Opinion that the noble Earl at your Lordship's Bar, is not guilty of any Part of the Charge produc'd against him.

We are now come to the Earl's Defence, which was thus open'd by Mr. Serjeant *Probyn*, viz. " We shall show that *Presents* have constantly been made to the *Great Seal* upon all Admissions of every respective Officer; and this hath been the known uninterrupted Usage; and every Chancellor hath taken them as customary *Presents*. +

The first Witness call'd to prove this Fact, was Mr. *Roger Lewis*, who, being sworn, declared, That he had been Clerk of the Custodies of Lunatics and Idiots for the Space of 35 Years; and as he was about to give an Account of the Presents usually made to the Great-Seal for that Post, he was very judiciously stopp'd by Mr. *Lutwyche*, who appealing to the Lords observ'd, That such a Procedure was wholly foreign to the Point before them. For when any Person is brought upon a Prosecution for an Offence against the Law, it is not of any Service for him to urge, that other Men have been guilty of the same Crimes. The Exposition of a Statute must be founded on the Words of the Law, and not on the Actions of other Persons. To the same Purpose Mr. Sol. Gen. declar'd, That if the Earl of *Macclesfield* produc'd any one to make out his *Innocence*, the Managers would not oppose it. But, says he, if the Noble Lord endeavours to show what the Law is from the Practice +

E

tice

Advice of other People, it is altogether improper : Because the Aggravation or Mitigation of his Crime must arise from the particular Circumstances, Manner, and Facts of his Lordship's Offence. The Earl's Counsel praying, that the *Evidence* opposed by the Gentlemen on the other side, might be admitted on his Behalf. He likewise back'd their Request himself, by urging, *That the Example of his Predecessors, was the sole Reason of his acting as he had done.* Then Mr. Serjeant Pengelly acknowledg'd, that in Prosecutions of a criminal Nature, where the Defendant hath been convicted, he hath been allow'd to lay Circumstances before the Court, in Mitigation of the Punishment : But till such *Evidence* appears in its proper Place, the Admission of it may be attended with great Inconveniences. This learned Debate was closed by an important Question of Lord Lechmere, viz. Whether the Earl's Counsel insisted on the *Practice* of his *Predecessors*, as a *Proof* of a *Right* in the Great Seal to take *Presents* as a Perquisite, or whether *it* be offered as an *Ex-tenuation* ? In both Respects was their Answer ; upon which, being ordered to withdraw ; and recalled in again, the Lord Chief Justice *King* acquainted the Earl's Counsel, that it was the Judgment of the Lords, they might proceed in their Evidence as they were going on. Upon which Mr. *Lewis* intimated to their Lordships, That he had *heard* some of his *Predecessors*, as Clerks of the Custodies, &c. had made Presents to the Great Seal ; but de-

declaring not any thing of his *own Knowledge*, and the *Party* he mention'd as his *Informant* being *dead*, it was over-rul'd by the King's Counsel, and declar'd by Lord Trevor, *That* ⁺ *such an hear-say Evidence, is no Evidence.* Then *Messieurs Oaker* and *Dupper* were call'd to prove the same Point, who asserted, That Presents had sometimes been made for the Office of *Clerk* of the *Custodies*, and at others, that it had been bestow'd *Gratis*; tho' Lord Harcourt had a Present of 250 Guines for a surrender of the said Post. And I cannot but remark in this Place, That Mr. Serjeant *Pengelly's* endeavouring to invalidate Mr. *Dupper's* Evidence, is very ungenerous. ⁺ *p. 39.*

After this one Mr. *Laiton* was sworn, and call'd upon to prove, That Presents had been made to the Great-Seal for the Office of *Cursitor*. But this Evidence was likewise oppos'd by Mr. Serjeant *Pengelly*, as tending to the Proof of a Circumstance not contain'd in the Articles exhibited against the Earl of *Macclesfield*. Upon which, some Debates arising between the Counsel on both Sides, and the Earl himself insisting upon *the Practice of his Predecessors in all Cases*. Mr. Serjeant then observ'd to the Lords, That it was to no Purpose for the *Managers* to come prepared to examine *stated Facts*, when there may be *ten thousand Things* insisted on that are not in Issue. ⁺

This Argument, as Lord *Townshend* declar'd, ⁺ was just; and that Evidence to a *Fact*, with which the Earl did not stand charged, was not within the Rule their Lordships laid down.

down. And if insisted upon, the Counsel must withdraw.

In this Debate Mr. Sollicitor General, with his usual Exactness remarks, That the *Commons* are ready to make good their Charge against the Earl; by this, says he, Issue is join'd upon every Thing in the *said Charge*, but not upon every foreign Thing the Earl is pleas'd to put into his *Answer*. We insist, concluded Mr. Sollicitor, that he is not to give *Evidence* of the Sale of any other Offices, but of those he is particularly charged with. As to the *Cursitor's-Office*, and other Offices that he is not charged with, we say he is to give, no Evidence.

The Managers and Counsel were order'd to withdraw, and upon being call'd in again, the Lord Chief Justice *King* told them, That
 + “ the Lords had resolv'd, that the Counsel for
 “ the Earl of *Macclesfield*, should not be permitted to give Evidence touching the Sale
 “ of the *Consistor's-Office*, for that no Evidence
 “ had been given in relation thereto by the
 “ Managers of the House of Commons.

Then Mr. Serj. *Probyn* only begg'd Leave to call one Witness more, in Opposition to the Evidence given by Mr. *Tho. Bennet*, in Relation to a Sum of Money paid by him upon the
 p. 15. Surrender of his Office of *Clerk of the Custodies*: This Gentleman had given the Lords an Account, that he had paid the Sum of 64 *l.* (besides 105 *l.* which he at first agreed to give the Great-Seal) upon his Surrender of that Office. To confront this Fact, Mr. *Tench* was sworn,
 and

and call'd upon to prove, that no Part of the 64 *l.* was really paid to the Great-Seal, as Mr. *Bennet* had insinuated, but that it was all laid out in the Fees and Expences of passing his Patent through the several Offices required upon that Occasion.

Mr. *Tench* acquainted the Lords, that he was *Clerk* of the *Patents*, and was employ'd by Mr. *Bennet* to sue out his Patent, and that he paid the Fees of every Office in passing it, which comes to between 60 and 70 *l.* of which 1 *l.* 11 *s.* 4 *d.* only went to the Great-Seal. Mr. *Tench* farther declar'd, that he had the Warrant for passing this Patent at the Secretary of State's Office. And, that he drew a *Petition* by Mr. *Bennet*'s Direction, to the Secretary of State, which being referr'd to the Attorney-General, upon his Report, the Warrant was granted. +

Upon a Motion then made, by Mr. Serjeant *Probyn*, that they would go on to the Proofs of the Usage of Presents being made by the Masters in Chancery to the Great-Seal, the House adjourned.

Thus ended the Fifth Day.

Ch. D. Saturday 13th May, 1725. Mr. *Meller* appeared, and being desired to give an Account, whether he knew of any Sum of Money paid to the Great-Seal, and how much, upon the Admission of a Master in Chancery.

But this Question Mr. *Meller* wav'd, believing, as he declar'd, that the Subjects of *Great Britain* are not compellable in any Case to +

to give an Answer to any Matter that may be to their Prejudice.

+ The Managers agreed, that this Objection of Mr. *Meller's* was just; and in Particular, Mr. *Lutwyche* observ'd, that such a general Question not only tended to make him accuse, but subject himself to a Penalty. Upon which the Earl of *Macclesfield* replied, My Lords, I insist upon an Answer to this Question, whether Mr. *Meller* knows of any Money given to the Great-Seal, on an Admission of a Master in Chancery. He may answer affirmatively, without at all affecting himself; and I submit, whether he ought not to do it.

+ The Debate growing warm upon this Question, his Grace of *Argyle* thought it convenient, that the Counsel should withdraw, which having done, and being call'd in again, the Lord Chief Justice *King*, told them, that the Lords were of Opinion, Mr. *Meller* was not obliged to answer the Question put to him, because it might tend to accuse himself.

Then Mr. Serjeant *Probyn* desir'd that Mr. *Meller* might be ask'd this Question, Whether he knew of any Sum of Money paid by any other Person, except himself, upon the Admission of any Master?

This the Managers apprehended to be repeating the former Question, only in a different Manner: but the Earl declar'd, that it was not his Desire Mr. *Meller* should be ask'd any Question to insnare himself, --- but only, *Whether he knew any Thing concerning any Money paid by any other Persons? and to name them particularly.*

The

The Lord Chief Justice *King*, then said, *You hear the Question.* Upon which Mr. *Meller* proceeded to relate *what he had heard one Dr. Eddebury say.* -----

But to this Mr. *Lutwyche* immediately objected, as not being *Evidence*, but only *Hear-say.* + p. 35.

Mr. Serjeant *Probyn* next desir'd that Mr. *Lovibond* might be called. This Gentleman attested that he paid 700*l.* to the Great-Seal, and 2000*l.* to Mr. *Pitt* for the Surrender of his Mastership, Lord *Harcourt* being then Chancellor. He likewise assur'd the Lords, in Answer to Lord *Harcourt's* Question, that the 2700*l.* which he paid, was out of his own Money, being, when he purchased, worth much more than that Sum. +

Mr. *Cottingham* being called upon the same Occasion, also testified, that in Lord *Harcourt's* Time, 800*l.* or 800 Guineas was paid on the Admission of Sir *Richard Holford's* Son as Master, and 2000*l.* more to Sir *Robert Legard*, on his Surrender, of the said Post, to him.

Mr. *John Bennet* being called, declared that he gave 500*l.* in the Chancellorship of Lord *Cowper*, and paid 3000*l.* more to Mr. *Medlicot*, who surrendered to him, all out of his own Money.

Sir *Thomas Gery*, being ask'd what he knew had been paid upon the Admission of a Master, replied, in equivocal Terms, that he knew not of any Sum paid into the Hands of any Lord Keeper or Lord Chancellor. But being pushed

pushed by the Earl of *Macclesfield* to declare, whether he had not known any Money paid for *their Use*. He then said, *He did not know how such an Answer might affect him, and therefore thought himself not bound to give it.* But being ask'd by Lord *Harcourt*, Whether ever he made up any Accompts of the Suitor's Money? He answer'd, That he had made up such Accompts, once in his Lordship's Time; and twice under Lord *Cowper's* Administration; and that all the rest of the Masters did so as well as himself.

Mr. Serjeant *Probyn* then acquainted the Lords, that they should proceed to prove, that all the Offices in the Court of Chancery are increased in their Value beyond what they were formerly, and consequently, have increased in the Price; therefore, he would infer, that the Price of *late* given, is no more than in Proportion to what was *formerly* paid. For this Purpose, he alledged, they had several Witnesses to produce, the first of whom, called and sworn, was one Mr. *Steele*; but the Managers being of Opinion that this Kind of Proof was not before their Lordships in Judgment. Tho' Mr. *Plummer* very honourably declared, that he should not object to any material Evidence; but, says he, if they are pleased to examine Mr. *Steele*, how far, by the Increase of Business, the Value of any Office is risen, that must be of the annual legal Value, and not according to the Liberties he left to his Masters.

The Lords seeming, as the Earl thought, that this Question could not properly be ask'd, he readily waved it. Tho' Lord *Lechmere* + and the Earl of *Strafford* were of Opinion, that the Question might be worthy their Lordships Judgment. Upon which Lord *Townshend* moved that they might withdraw. And doing so, upon their Return, Lord Chief Justice *King* acquainted the Managers and Counsel, That the Lords had consider'd the Question on which they withdrew, and that they were at Liberty to ask--- *Whether the Price of* + *Offices in the Court of Chancery, and in the Six Clerk's Office, particularly, be increased now more than heretofore they were?* Upon which Mr. *Steele* affirmed, That when he became a Clerk in the Chancery-Office, 1687, Waiting-Clerks Places were sold for 50 Guineas, or less; and that he has since known the same Places sold for 3, 4, and 500 *l.* He also declared, That his Master, being a sworn Clerk sold his Place but for 230 *l.* and that the same Place hath been since sold for 800 *l.* That they likewise used to take a Clerk for 100 Guineas, and that now 300 Guineas was commonly given with one.

After this Mr. *Goldesbrough* was called to prove the Re-Payment of two Sums of Money, given by Mr. *Kinaston* and Mr. *Bennet*, *ad val.* 3000 Guineas, which his Lordship deposited in Court in Bank-Notes and Cash. Then Mr. *Serj. Probyn* observed, that also in the Case of Mr. *Elde*, tho' he paid 5250 *l.* all the Money was returned, except 1850 *l.* so the same

as to Mr. *Thurston's* 5250 *l.* that all was returned in a reasonable time, except 2000 *l.* He said also, that when Mr. *Thurston* was admitted for 5000 Guineas, another Gentleman offered 6000 *l.* and Mr. *Cottingham* asserted the same as to Mr. *Elde*. This was urged to show his Lordship was not that avaricious Person, represented, having refused 6000 *l.* and took less from another. Then Mr. *Ellis* was called and sworn, who likewise attested the Truth of the Facts abovementioned.

+ Then Mr. *Robins*, Counsel for the Earl, opened, in Extenuation of the Crimes charg'd upon his Lordship, in a very copious Manner; (tho' with a Gloss as delusory as will ever be found in Causes where Bribery and Corruption are so conspicuously predominant.) After which were read some *Petitions*, and *Witnesses* examined as to the Proof of *Negotiating* for the *Surrenders* and *Admissions* of *Masters* in *Chancery*, their *Substances* and *Probity*. Vain Efforts! to make the best of a bad Market.

Thus ended the Sixth Day.

7th Friday, 14 May, 1725. The Debate of this Day was opened by Mr. *Strange*, who endeavoured, what he very weakly put in Execution, to palliate the Charge brought against the Earl, with relation to the Case of Mr. *Dormer*. And indeed so very weakly was this effected, that there is not so much as one single *Argument* produced by this Gentleman, that will stand in the least Competition with the Managers *Evidence*. Indeed Mr. *Strange*, like

like his Brother *Bays* in his *Defence*, has put some *Supposes* to the *Lords*, tho' to as little Purpose, viz. *Suppose, my Lords*, says this Counsel Learned in the Law, *the Proposal had not been complied with.* Why then, good Sir, *the Earl had not been guilty of any Crime.* From a pretty many more *Suppositions* of equal Weight, Mr. *Strange* addresses himself to the House with the strictest Veracity, *such my Lords*, concludes he, *is the Nature of our Defence.*

Every Witness called to excuse the *vile Frauds* of *Dormer*, were so far from the least Extenuation, that they are all full Demonstrations of his Guilt. Of the Truth of which I make no Doubt but Mr. Serjeant *Probyn* was thoroughly convinced, when he frankly own'd *that they should give the Lords no farther Evidence* as to this Point: Tho' he cannot help *Supposing*, because he would willingly keep his Brother *Strange* in Countenance, if possible. The Crime *supposed* in this Charge of *Dormer*, says he, is denied by the Earl. This Mr. Serjeant knows cannot be disputed, but I hope he would not from thence infer that the Earl's *Denial* of any Charge, can be any Proof of his *Innocence*, any more than *standing in a Falshood* can be admitted as a *Confirmation* of the Truth.

The other pretended Apologies made for the *Masters* in *Chancery* are meer Jargon, and the several Examinations to that End are equally tedious as absurd, to load the Memory of any impartial Reader. Tho' I must agree

with Mr. Serjeant *Probyn*, that even from what has been offered in his Lordship's Defence,—*The Earl's Character is so clearly established, that there was no Necessity for troubling their Lordships with any thing more on this Head.* But now we are to stand clear, for *Private Virtues* are to be produced as *significant Apologies for Publick Vices.* The Text is—*Charity covereth a Multitude of Sins.* The Barrister turns *Preacher*, therefore, in his own Words, hear ye Him, *viz.*

“ We shall trouble your Lordships with
 “ one Piece of Evidence, which the Noble
 “ Lord is with a great deal of Difficulty
 “ obliged to submit to; and that relates to
 “ the Private Conduct of himself, of which
 “ *many* enjoy the Benefits, and *all* were en-
 “ joined and obliged to keep secret; but now
 “ it is become necessary to make known, since
 “ he hath been represented in Publick, as a
 “ Person full of Corruption, that hath studied
 “ nothing in the whole Conduct of his Life
 “ but the Amassing great Riches to Himself,
 “ in Oppression of His Majesty's Subjects; it
 “ is now become necessary, for the Vindication
 “ of his Lordship's Innocence, to show that
 “ his Actions (which best speak the Intention)
 “ have been of a different Nature; that as he
 “ hath received great Bounties from His Ma-
 “ jesty, so he hath been as liberal in sharing
 “ them with those who have wanted his Re-
 “ lief.— We beg leave to submit, whether
 “ it be possible to suppose, that a Noble Lord,
 “ whose Heart was so charitably inclined to
 “ relieve

“relieve the Afflicted who applied to him,
 “and to seek Opportunities of doing Good to
 “Strangers who were no ways known to
 “him, could be guilty of Actions, such as
 “have been represented: How can these
 “things be reconciled, that a Man, truly
 “Religious, truly Virtuous and Charitable,
 “should be guilty of Oppression, Injustice,
 “Avarice and Corruption? We beg Leave
 “to produce some few Instances of this Na-
 “ture, and then submit their Weight to your
 “Lordships great Judgment.

Tantamount to this *Serious Lecture*, I will
 tell a *merry Tale*, and leave the Application of
Both, till the *Evidence* is summed up.

Sir Roger L'Estrange, in his Fables, recites a
 Story of *Two Travellers* who resolv'd to go to
 Heaven each in his own Way. One of them,
 being a very strict Liver, practis'd all the Arts
 of *Ecclesiastical Discipline*, from the *knotted*
Whip, to the parsimonious Fare of the most
rigid Fasts: And was always observ'd both at
Matins and *High-Mass* to drop his Benevolence
 into the *Chink-Trap*, inscrib'd — *Pray remem-*
ber the Poor. This *Religious*, as Holy Church
 styles them, obliged by his Function to *Celibacy*,
 was a *Pathick* by Profession, his only Hopes
 being in the Text above cited — *Charity cove-*
reth a Multitude of Sins. His Comrade too,
 (for, by the way, they were both *Priests* of
 the Mendicant Fraternity) had a strong Im-
 pulse towards Acts of Charity. But you are
 to take Notice, that the *First*, spar'd it out of
 his own Belly to feed the Hungry wherever he
 found them. The *last*, filched from others to
 feed

feed himself. As for Example, Officiating one Day, at a Convent, by Proxy, for the Priest of the Place; after he had administer'd the Holy Communion, he whipt the Chalice into his Pouch; Fye, fye, says his Brother, *render unto Caesar*; &c. So I will, you Fool, says he, and with the utmost Generosity at going out of the Chapel, when others put in a Penny, he slapt a Pistole into the Poor's Box; then turning quick upon his Comrade, he thus deliver'd himself with an Air of Gallantry and Freedom — *By that Time, Jack, you are as well experienc'd in the True-Faith as my hoary Head convinces you I am, you will know the Difference between the Shadow and Substance of Religion. You cannot but Witneß for me, that I have honestly paid the Church for the Fashion of the Plate, therefore I think my Self justly intitled to the Metal, which tho' Gold, you well know, (but for its intrinsick Worth) ought by Us to be esteem'd, only as the Dung and Dross of all Sublunary Enjoyments. Therefore tace we are now enabled to make Converts for a Hundred Leagues to come.*

Which of these Two was the most charitable Person, I shall freely leave to the Decision of Counsel learned in the Law.

The Earl's charitable Contributions, as attested by Mr. Oaker.

Allowed for the Subsistence	l.	s.	d.
of Mr. Brown, Author of			
several Practical Books in			
the Law, per Month 24 s.	120	00	00
which to the Time of his			
Death amounted to			

b301

Given

Given to Mr. <i>Vigurs</i> , a poor Curate of <i>Thames-Ditton</i> in <i>Surrey</i> , for his Subsistence, and afterwards bestow'd upon him a Living near <i>Sittingbourne</i> in <i>Kent</i> .	l.	s.	d.
To Mr. <i>Meyers</i> , a converted Jew.	080	00	00
To one <i>Thwaites</i> a Quaker.	060	00	00
To release Capt. <i>Wickam</i> , a Half-Pay Officer, out of the <i>Marshalsea-Prison</i> .	042	00	00
To clear an old Debt (for which a Clergyman had been arrested, to whom he had given a Living) besides the Bill of Costs.	036	00	00
To bear a poor Gentleman's Expence to <i>Ireland</i> , &c.	015	15	00
To Mr. <i>Saunders</i> , a Clergyman above.	144	00	00
To release Mr. <i>Higgs</i> out of Prison, &c.	090	00	00
To Mr. <i>Hunt</i> , upon reading his University Exercises; and at other Times.	121	16	00
To Mr. <i>Gagnier</i> , Deputy-Arabick Professor of Oxford.	021	00	00
To Mr. <i>Smythys</i> , the Mastership of an Hospital at <i>Colchester</i> , and paid for repairing the Parish Church annex'd to the said Hospital.	052	06	11 $\frac{1}{4}$

To

To Mr. <i>Shute</i> , Treasurer to the Society for propaga- ting the Gospel in Foreign Parts.	}	021 : 00 : 00
To Mr. <i>Thornbury</i> , the Living of <i>Minehead</i> in <i>Somerset-</i> <i>shire</i> , free of all Expence, and besides as a Present to buy Books.		
The Total of these several Amounts, is	}	951 : 18 : 11 $\frac{1}{2}$

+ Then the *Earl's* Benefaction of *Four* or *Five* Hundred Pounds *per Annum*, to such Gentlemen as were recommended to him in the University of *Oxford*, for the promoting of their Studies in Law, Physick, Divinity, or any other Branch of Learning; was testified by the Bishop of that Diocese.

From this Sketch of his Lordship's *Charities*, I believe it will be pretty apparent that our Fable needs not any Application; *Qui capit Ille facit*. And the just Rebuke our Mythological Knight gives to all such charitably dispos'd Ecclesiasticks, is, that such Generosity, is only like committing Robbery for a Burnt-Offering.

Yet upon the Article of the *Earl's* Charities, Mr. Com. Serjeant *Lingard* thus concludes,
 " That *they* have flow'd in a continual Stream,
 " and can be owing to nothing but a constant
 " habitual Benevolence towards Mankind, a
 " regular and continual Inclination to do
 " Good. I wish, indeed, it could not have
 been said, that his Lordship's *Corruptions* had
 not

not likewise flow'd in a *continual Stream*; and I hope Mr. Com. Serjeant is likewise fully convinc'd, That doing *Evil* that *Good* may come of it, is but the Arguing of a very weak Casuist.

But Mr. *Robins*, another of his Lordship's *Seconds*, decides, indeed, with Demonstration; for, he says, *he may affirm, that those who are acquainted with his Innocence, will never be brought to think him Criminal.* This Assertion is most certainly indisputable. So likewise is another of his Declarations in Defence of his Client, wherein he frankly allows, *That every Step this noble Earl took, every Advance he made, for the Benefit and Relief of the Suitors, was not the best that could possibly have been invented.* And this Gentleman farther observes for the Honour of his Country, *That many are the Abuses, the Corruptions, and the Evils which have sprung up in our Courts of Justice.* From hence, no doubt, inferring, *That Injustice is a Legal Part of our Constitution — Tanta molis erat!* Tho' to conclude, the Conclusion of Mr. *Robins's* Apology, deviates into *Poetical Truth*,

Orphans in vain Petition for a Cure,
Streams will run muddy when the Spring's
impure.

Now for Mr. *Strange's* finishing Stroke, who, to do him Justice, as in the Beginning he appear'd the chosen Bays of this Impeachment, so he continues to *elevate* and *surprize*, even unto the End. He desires to *shut* as he *opened*,

G

and

and therefore, *first*, gravely remarks, That the Occasion of their Lordships meeting at this Juncture, *was to hear this Noble Earl Arraigned. Secondly*, he calls this most August Assembly, by Craft, what I dread to name: For, My Lords, says he, *I should have thought the Relation he bears to your Lordships would have been his sufficient Protection.* Here certainly every im-

τ p. 12. +

partial Reader must allow that the *Par nobile fratrum* is most exquisitely well play'd off, and that too, in a very *uncommon* Manner. *Thirdly*, As to selling of Places, 'tis like collecting upon the High-Way, it has been done before, as Sir *John Falstaff* told the Prince, *argol* it may be done again, and why not, ha? *Fourthly*,

His Lordship's *Foes* now find a sure Defeat,
For *Strange*, by Scripture, sanctifys the Cheat.

“ My Lords, it is the Misery, I may say the Sla-
 “ very, under which *other* Nations groan, that
 “ Crimes are punished, and that he who com-
 “ mits the *smallest* Offence may be put to un-
 “ dergo the most rigorous Punishment; but
 “ God be thanked, my Lords, *He hath not*
 “ *dealt so with this Nation*, but that *His Pec-*
 “ *ple hath Knowledge of the Laws*; (Great)
 “ Crimes are stated *here*, their Punishments a
 “ *trifling Mulct*; and give me Leave, my Lords,
 “ to say, that this is one of the main *Channels*
 “ through which our Ancestors have deliver'd
 “ down to us That Liberty, which is the
 “ Glory of this, and the Envy of all other
 “ Nations.

Thus Men pursue the different Roads to
 Fame. Sir

Sir Robert Filmer has undertaken to prove ⁺ the *Patriarchal Right* of our *Monarchs* to the Crown, and Mr. *Strange* has historically traced the *Hereditary Roguery* of English Subjects.

I cannot help being of Opinion that most, if not all the Counsel for this Noble^{ne} have, in their Times, executed with great Fidelity, the Office of Commissioners of Sewers; tho' their Heads are at present so much drained of common Sense, otherwise they could never so regularly *link* their Thoughts in the same *Chain*: For Mr. Serjeant *Lingard's* Stream, and Mr. *Strange's* Channel, meet as pat as the Two Kings of *Brentford*, and perform their *Figure-Dance* with as much Exactness as the *Sun* and *Moon* in the *Rehearsal*.

But I beg pardon for digressing, and proceed, *Fifthly*, to shew how *Arch* Mr. Barrister *Bays* is upon the *Managers* of the House of Commons. Your Lordships were told, says he, *That the noble Earl was pursued hither by the united Cries of Widows and Orphans - - But we have heard none.* And then observes with a *Rhetorical Flower*, *That his Lordship's Crimes were not so fully blown as they had represented.* Now since poor *Bays* is startled so much at a *Metaphor*, as not to allow of any *Cries* that are out of his own *Hearing*: I would fain ask him whether he was never One of a *Leash* of Counsel in a *Trial* at Bar, that have cried out to the Bench, We have been greatly ⁺ injured my Lord. We humbly hope for Redress. Tho' neither of them had any more

Concern in the Complaint than to stand *Bell-Weathers* by Proxy. *Sixthly*, With an *Hibernian* Front he thus declaims “ How little
 “ Ground, my Lords, there was for Com-
 “ plaints, may, I think, be fairly inferred
 “ from the Defect of Evidence in this Parti-
 “ cular; since after the strictest Scrutiny,
 “ both into his *Publick* and *Private* Life, your
 “ Lordships have not had *One Witness* appear
 “ at your Bar against him. Surely Mr. *Strange*
 never read the Story of *Ananias* and *Saphira*;
 if he had, he could not, I think, have permitted his *Lying Spirit* to travel so round a Trot. He well knows these were not any *Articles* of *Impeachment* exhibited against the noble Earl’s *Private* Life, but against his *Publick* Conduct, Clouds of Witnesses have detected beyond Dispute his Corruption, Avarice and Male-administration. *Seventhly*, He backs one *Falseness* by another *Untruth*, confidently affirming, that the Complaint against the noble Earl, was not as an *Oppressor*, but as a *Reliever*; when he as well knew that *Oppression* is the Charge brought, and made good against him, as that *Relief* was expected from that most Illustrious Tribunal who have brought him to condign Punishment.

+ The noble Earl himself, indeed, declared, That a Charge of this Nature had very much affected him, and therefore begged Leave to lay before their Lordships, some Observations on the several Parts of the Evidence given on both Sides. And desiring Time to recollect his Thoughts, for that Purpose the Lords adjourn’d.
 Thus ended the Seventh Day. Mon-

Shd. Monday 17 May. The Proceedings of this Day were opened by Mr. Serjeant *Probyn*, who begged Pardon for some Omissions made in the *Evidence* on the Earl's Behalf, and desired that the following *corroborating Circumstances* might *strengthen* it. 1st. That notwithstanding the Charge of *Avarice* exhibited against the Earl, their Lordships would be pleased to take notice, the Estate which he hath purchased is but 3000*l.* a Year, and that his Personal Estate doth not exceed 2000*l.* 2^{dly}. That upon this Proof, it appears his Lordship has been more Charitable than his Circumstances would afford.

+ But this Proceeding being opposed by the *Managers*, as a new Method of Practice, after the Conclusion of the Counsel upon the *whole Evidence*, to say they have *more Evidence* to some of the Facts: Besides, says Mr. Serjeant *Pengelly*, as to the Estate and Circumstances of the Earl, how can the *Managers* be provided to give an Answer to it? There is nothing in the *Articles* leading thereto: They do not charge him with having a great and large Estate, tho' that hath been formerly a proper Article in an Impeachment. But it is not made one in this Case; the Charge of the Commons is confined to particular Sums received. If the *Managers* had gone into the Enquiry of any other Sum, at least without particular Notice to him, I believe it would have been objected against by the impeached Earl: Therefore to go into this Sort of *Evidence* is putting the *Commons* to an-

answer what is not in *Question*. This was also backed by Mr. *Lutwyche* and Mr. *Plummer*, the Earl's Counsel made some farther Advances to have the Evidence, they said they had forgot, admitted, tho' Mr. Com. Serjeant, indeed declared, that they could not ask this as a Matter of Right, but as a Matter of Indulgence.

Then the *Earl* himself declaring, that he had several *Witnesses* attending which tho' his Counsel forgot to call, yet he hoped their Lordships for such a Mistake, would not exclude him the Benefit of their Testimony.

+ Upon this the *Lord Steward*, moved to withdraw, which being done, and the Counsel, &c. called in again, the *Ld. Ch. King*, acquainted Mr. Serjeant *Probyn*, That their Lordships were of Opinion, the *Evidence* relating to the farther Account of the Earl's Charities, *be not admitted*; and likewise that he *be not now permitted* to give Evidence of the Value of his Estate, either real or personal.

Upon this Resolution of the House, the Earl desir'd a farther Time to prepare for his Defence, declaring, That tho' for two Nights he had not slept Five Hours, yet he had not been able to get through the *Evidence*, and make his *Observations* upon it. He then desiring till *Wednesday*, all Parties were directed to withdraw, and the House adjourned to that Time.

Thus ended the Eight Day.

Wednesday

Wednesd. Wednesday, 19 May, 1725, being the Day appointed for the Earl to make his Defence; He first thanked the Lords for the Time they had indulg'd him in, for recollecting his Thoughts, and looking over the Evidence offered on either side, during the Course of the Proceeding; and then his Lordship went on to make his Observations.

1. He recites the Foundation of the whole Charge brought against him, viz. *His entertaining wicked and corrupt Purposes, to raise and procure to himself excessive and exorbitant Gain and Profit.*

2. " I shall endeavour, *says he*, to show
 " your Lordships, that the several Things
 " charg'd upon me are either not true, or not
 " criminal; or if your Lordships should judge
 " otherwise of them than I do, yet that they
 " were the Effects, not of Wickedness, but of
 " Mistake; and if I have ever done any thing +
 " for the Service of my Country, of the Con-
 " stitution, of His Majesty, and of the Royal
 " Family, and the present Establishment, and
 " for the Administration of publick Justice,
 " it might not be unsuitable to the unparallel'd
 " Goodness of this Reign, for your Lordships
 " to have Compassion upon the Errors, Mi-
 " stakes and Weaknesses of the faithful steady
 " Servant of a Prince, whose Mercy has been
 " so often extended, in so great a Degree, to
 " the highest Crimes of his bitter Enemies.

Such is the Opening, and such the fallacious Reasoning of his Lordship's general Defence, *Hec! Quantum mutatus ab illo.* Herein he asserts,

asserts, 1st, That the Facts charged upon him, were the Effects not of *Wickedness* but *Mistake*. This must certainly be allowed, for the most *perverse Wickedness*, is only *wiiful mistaking of Evil for Good*. 2^{dly}, That if he had ever done *any thing* Praise-worthy, *all* his Offences ought to be forgiven. 3^{dly}, He requests that Compassion may be had upon the *Errors* and *Weaknesses* of a *faithful* and *steddy* Servant. This Construction of his Crimes is in it self so contradictory, that it will not admit of the least Comment by Way of Palliation: Error and Fidelity being as opposite as the two Poles.

+ I shall now proceed to his Lordship's *particular Defence*, which I am sorry to find introduced with the Declaration of the most *hardened Sinner*. "I am my self, *says he*, of Opinion, that I have not done any thing that is criminal, or needs a Pardon." This indeed is paying a strange Compliment to the Capacity of his Illustrious Judges, whose *Opinion* of his *Guilt* will, I dare say, appear to be much better grounded than his Lordship's *Opinion* of his own *Innocence*. Yet he goes on to affirm, That notwithstanding "so many Gentlemen of Learning and great Parts have undertaken to prove him a Criminal, as he before thought, so he continues to think, that he is not so." Now therefore let us impartially examine the Force of those Arguments he brings to acquit himself.

It is to me very surprising, that his Lordship should attempt a *Defence* founded on *Inconsistency*. He peremptorily declares, and confirms

confirms his Declaration, *that he has not done any thing that needs a Pardon*; and in the very next Paragraph declares, *it had been Folly in him not to have taken Advantage of the Pardon which his Majesty has so graciously granted to all his Subjects*. They must be Guilty Subjects, or they could not stand in Need of any Royal Indulgence. But the Manner in which the Earl has blended *Offence and Innocence* is to me such a Paradox that I freely own I can pursue it no farther. Tho' to use his Lordship's Gallicism, which he seems inclinable to naturalize, I cannot but *Opiniatre* that the *Chicane* is visible even to the meanest Capacity.

His Lordship farther insists, that he has fully acquitted himself in the Close of his *Answer*, where, *says he*, I have pleaded the general Issue, and in exprefs Words declared, that *I am not guilty of all or any the Matters contained in the Articles, or any of them, in Manner and Form as they are therein charged against me*; which is of it self a direct and full Answer, without more. It may indeed be a full Answer, or rather an *Objection*, to the *Manner and Form* of the *Articles*, but such a downright denial cannot fully be called any Answer at all to the *Facts* contained in them.

His Lordship's Defence wholly consisting of mean Subterfuges, and Forms of Law, I shall hasten to the *Managers* Replication, because I would not load the Reader with Repetition. For his Lordship himself acknowledgeth, that *all his Reasoning is greatly fortified by the Usage of his Predecessors*; which is

no Reason at all, because there is not any Crime that can be committed, but Prescription may be pleaded thereto, even Murder it self, which, in the Eye of the Almighty, is looked upon as the most heinous. However, the Close of all his Observations is sufficiently compliable, *I submit, says he, my whole Life and Conduct to your Lordship's Judgment; and rely entirely upon your Justice for my Acquittal.* Upon which, that the Managers might have Time to weigh the Merits of his Lordship's Defence, the House Adjourned from Wednesday till Friday.

Thus ended the Ninth Day.

10th Friday 21 May 1725-6. Mr. Serjeant Pengelly, began the Replication, of the Part assigned him, to the Earl's Defence, observing as his Lordship had done that, the General Crime charge upon him was, *Extortion by Colour of his Authority as Lord Chancellor; Gross and wilful Negligence in his Office, to the great Damage and Loss of the Suitors of the Court, but to his own private Gain and Advantage.*

The particular Exactions are, his taking,

	Guineas
From Mr. Thomas Bennet	100
From Mr. Kinaaston	1500
From Mr. Thomas Bennet, more,	1500
From Mr. Elde	5000
From Mr. Thurston	5000

The Misdemeanours, as well as all the other Offences, of which the Earl is accused, were committed

committed by him whilst he executed the Office of Lord Chancellor.

From whence the Earl and his Counsel take Occasion to make a Triumph upon the supposed Justice and Regularity of his Administration and Conduct when he presided in the Court of *King's Bench* ; because the *Commons* have not produced any Misbehaviour in the Execution of that Office against him. This is an Instance of *their* Lenity, but no Proof of the *Earl's* Innocence. And I may venture to say, that the Consistency and Uniformity of the Proof made by the *Commons* upon so many different Heads, are sufficient to convince all the World of the Necessity, which there was, for the Honour of the King, and the Welfare and Satisfaction of the Nation, to carry on this Impeachment, founded on so much Truth and Justice.

The *Earl*, in his Defence, insists that his *Oath* has no relation to the *Offences* charged ; and that no Inference can be made to his Prejudice from the Tenor thereof. But his Memory, or Explanation of his *Oath* is very defective ; as he has set it out himself, he swears that, *He will well and truly serve the King and his People in the Office of Chancellor, and do Right after the Laws and Usages of this Realm* ; which certainly comprehends the Observation of every thing, that is Part of the Duty of, or incident to his *Office*, and the avoiding of every illegal and unjust Action in the Execution thereof. And the Omission of any Part of, or Commission of any Offence against his Duty,

is a Breach of the *Oath* of his Office, tho' the Particulars are not enumerated therein ; and the contrary Opinion will open a Door to the Commission of all Manner of Injustice and Rapine by Civil Officers.

The Antient Law of *England* was, That none having an Office concerning the Administration of Justice, should take any Fee or Reward of any Subject for the doing of his Office, to the End he might be free and at Liberty to do Justice.

“ It is accorded, 13 *Rich. II. C. 2*, That the
 “ Chancellor (*by express Name*) Treasurer, Keeper
 “ of the Privy Seal, Steward of the King's
 “ House, the King's Chamberlain, Clerk of
 “ the Rolls; the Justices of the one Bench, and
 “ of the other ; Barons of the Exchequer, and
 “ all other that shall be called to ordain,
 “ name, or make Justices of the Peace, Sheriffs,
 “ Escheators, Customers, Comptrollers,
 “ or any other Office or Minister of the King,
 “ shall be firmly sworn, That they shall not
 “ ordain, name, or make any such Officers,
 “ nor other Officer or Minister of the King,
 “ for any *Gift* or *Brocage*, Favour or Affec-
 “ tion.

The Act proceeds farther in a different Form of Expression, and to another Matter.

“ Nor that none which pursueth by him,
 “ or any other, privily or openly, to be in
 “ any Manner of Office, shall be put in the
 “ same Office, or any other ; But that they
 “ make all such Officers and Ministers of the
 “ best and most lawful Men.

The

The Earl apprehending how much this *Statute* pressed upon him, endeavoured to distinguish himself not only out of the *Oath*, but out of the entire Act, by objecting, that this *Statute* and the *Oath* directed, only extended to such Nominations as are made in the Nature of Elections, by an Assembly of all these great Officers and Ministers, when they are called *together* for that End; which Word *together* is of his own Inserting to serve his Purpose; as in the *Case* of *Sheriffs*, and not to their single and separate Nomination of Officers, in Right of their respective Offices, by themselves.

And as the *Earl*, in Right of his Office of Lord Chancellor, was only intrusted with the Nomination of the Masters, for the Service of the King and the Benefit of all his Subjects; these Offices are therefore no more saleable, than if they had remained in the immediate Gift of the Crown, by Grant under the Great Seal.

The next Part of the *Earl's* Defence is a direct Justification of the Fact of which he is accused; insisting, that his taking these Sums of Money *is lawful*; because as Lord Chancellor he had a *Right of Nomination and Admission* of the *Masters*, solely in himself; and a Man may dispose of his own Favour upon what Terms he pleases; and Officers may give Money for their Places, and yet be good Officers, as it is suggested.

Some Instances were cited out of the *Roman* Law, where Part of the Revenue of the Emperors

Emperors did arise out of Perquisites of this kind; from whence the Earl infers, that the taking these Sums for Sale of Offices, was not against Natural Justice.

But these can be of no Authority in this Kingdom, as being repugnant to the Law of the Land, and have never been received; and the *Common Law of England* must be the Rule of Justice in this Case.

It appeared upon the Evidence, in regard of the *Clerk of the Custodies*, that there being no Salary annexed to the Place, it did belong to the *Secretary of State*, to recommend or to obtain the Sign Manual; so that the Earl's desire of Gain in this Instance, carried him beyond the Limits of his own Office, where he had no Right of Recommendation, to raise the poor low Sum of *One hundred Guineas*, at the Time when he was *One of the Regents*; and thus he joined his Share of the *Royal Authority* to his Power of *Lord Chancellor*, in order to get and secure to his own private Use so considerable a Sum as *One hundred Guineas* from an exhausted Master! a strong Evidence of his corrupt Intent and Views.

This single Exaction overturns the whole Fabrick of Merit, suppos'd to be raised by the *few scattered Instances* of his *Charity*, which he has been pleased to divulge in Evidence.

He might have brought more recent Instances, from Countries where unlimited Power does prevail, and where Justice it self, and the Places in which it is to be dispensed, are not to be attained without a Bribe.

Agreeable

Agreeable to such Bribery, is the Earl's raising and receiving these exorbitant Sums, are as Criminal, as if he had put the Offices to Auction, when no Sum or Fee had ever been taken or heard of. And in his Method of Practice there can be no distinction between a *Present* and a *Price*; for he made the *most* always of his Share or Claim in the Office. When he was only to admit upon a Surrender, he took 1500 Guineas for his Good Will and Approbation meerly; and when he admitted upon a Death, he took 5000 Guineas at the least, altho' the Office was greatly in Debt; as in *Borret's Case*, where the Suitors will loose upwards of 12000 *l.* of their Effects by the lowest Computation.

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p. 66.

As to the citing particular Cases, wherein the Sale of Offices, Judicial, or of the like sort with those in Question, have been determined to be Illegal at Common Law, it is not necessary; for the Managers might more properly call upon the Earl and his Counsel for Authorities or Judgments to the contrary. But Matters of a corrupt Nature are always privately transacted, and no Witnesses, are to be produced besides the Parties concerned. And wherever a Precedent can be produced of any such Transaction, I may engage to shew that it has ever been holden illegal. For so exceedingly cautious was the Legislature, that there is not any Expression enacting such Bargains in the Cases excepted to be good. And this general Observation is to be made upon all the *Money Articles* that the *Evidence* that it has been

+ been agreed by all the Witnesses examined thereto. But the Earl's chief *Defence* is raised from the Practice of his *Predecessors*, who, (as he pretends) led him into these Mistakes; and has proved some Presents made to former *Chancellors* upon the Admission of *Masters*, and from thence insists that tho' he cannot claim the exact Sums received by himself upon Admissions, as certain and established *Fees* or Perquisites, because he has taken *twice* as much as his *Predecessors* did: Yet this *Practice* gives him a Right to a *Present*, and it was in his *own Discretion* to declare the *Sum*, as he should think reasonable, according to the late increase of the Business of the Court. This shews that the Earl thinks he wants the Proof very much, when he makes use of such an Argument to raise Evidence. But howsoever he may have directed himself, he can never think that such Artifices will ever prevail upon your *Judgment*; or, that he can thereby move your *Lordsships* to give up your *Honour*, in the highest Exercise of your *Judicial Power*.

The *Truth* is that, the *Earl* ought either to have advanced Persons equal to the great *Trust* and *Charge*, or to have reduced the *Trust* and Deposit (of Money) to the Condition and Circumstances of the Person, as his *Predecessors* had done. But the Neglect of this Case, makes it Evident, that he had only in View the *Price* and *Profit* of the Sale of the Office, which would rise highest, upon the Inability and Unfitness of the Officer. And it

was therefore very properly said by one of the Earl's Counsel, that he *weighed* the *Masters* before he *admitted* them. +

His false, tho' memorable *Declaration* in open Court, upon the 21st of *January* 1723, explains his whole Scheme, when he published from the Bench, *That the present Masters were Men of as great Fortunes as any Set of Masters had ever been.* And altho' the Insufficiency of some of the *Masters* had been decently intimated to the *Earl* by Mr. *Lightboun*, upon his several Proposals, and the *Earl* may be presumed to know the general Apprehension of the World. Yet in this Solemn Manner, the *Earl* became an Officer to himself, to proclaim his own Market. Besides, by his own Confession, he is guilty of a total Neglect of all Measures; and never prosecuted one honest and real Step towards the suppressing the Suitors Abuse. And upon this Head the *Earl's* Answer is directly falsified. For he declares upon his *Honour*, upon that *Honour* which is communicated to him from the Privilege of the whole *Order of Peers*, (but of which he himself has only made a Shew or Appearance) that he was totally ignorant of this *Practice*; altho' it appears in *Proof* to have been a Matter publickly known during his Administration. This *Notoriety* is Evidence sufficient to charge the *Earl* with the Knowledge of a fraudulent Transaction propagated under himself; especially when the Pretence of his Ignorance must arise from the wilful Neglect of his Duty. But express Notice is proved out of his own

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p. 23.

Mouth, by Mr. Thomas Bennet; and further, that the *Earl* had been used to prostitute his *Honour* by a Course of Denial of this Fact, upon former Occasion. For Mr. Bennet attending the *Chancellor*, after he had given in his *Accompts*, upon entering into Discourse with him thereupon, said, *I am sorry, Mr. Bennet you have given in your Accompts in this manner; it was the worst Way in the World: For all the World will now judge, that you paid for your Office out of the Suitors Money; and what hath been so much suspected, will now be discovered, which I have always taken so much Pains to deny, whenever I was asked the Question. The Truth of this Evidence stands confirmed, and seems farther strengthened by an Opinion which the Earl dropt in his Defence, viz. That the Suitor was not the worse by his Method; for by this Detention, the former Master remained still responsible, and (as he observed) by Mr. Meller's retaining some part of the Suitors Effects, the Deficiency in Mr. Borret's Office was not so large. This is a strong Symptom of the Earl's Knowledge of the Practice, when it had obtain'd his Approbation.*

There is likewise another Matter of Fact which assists the Proof against the *Earl*. That the *Price* of the Office, and of the *Admissions*, are comprehended in the *Accompts* of the *Masters Deficiencies*. Which manifests the Danger and Injury of this unjust Practice to the *Suitor*, whose Estate is thereby put upon the Hazard of the *Masters* good or bad Success, and his Property lost with a *Deficient Master*.

Master. Here the *Corruption* and *Misbehaviour* of the *Earl* appear with the highest *Aggravation*. The extorted Profit made by him, is raised out of those Effects, which are deposited in the *Court*, upon the *Faith* and *Honours* of the King's Administration, under the Care of the *Chancellor*, as chief *Trustee*, by whose *Connivance* (if not *Consent*) they are thus imbezzled; and the miserable *Suitor*, must either sit down with the *Loss*, or be forced to expend his little Substance, in a tedious *Process*, to recover back his *own Estate* thus wasted and converted by the *Masters*. Unnecessary Delays and Protractions of *Causes*, are the unavoidable Consequences of this *Practice*; and in this manner, the Business of the *Court*, and the Profits of the *Masters Offices* have been increased by the Pursuit of the Parties after their own Effects; which in the Conclusion terminates in so heavy a *Loss*. As these *Offences* have been proved upon the *Earl impeached*, of what Consideration in Judgment can his mistaken and misplaced Charities be? Can they alter the *Facts* charged upon him? or turn Extortion and Fraud, into Liberality and Piety? Can the Merit of a few private good Works, atone for the Plunder of the *whole Body of the Suitors of the Court of Chancery*; upon whom this *Earl* by his *Misbehaviour*, has brought a *Deficiency of One Hundred and Eight Thousand Pounds*. He depends upon the Prayers and Wishes of those *few*, who have been the Partakers of his *Bounty*, without being Sufferers by his *Crimes*.

But the *Voice* of the *Commons* for *Justice* against this Great *Offender*, not only includes the Complaints of the *particular Sufferers*, but the *Accusation* of an *injured Nation*, whom the Earl had endeavoured to cut off from the *Protection*, which ought to be derived to them from the *Father* of *his People*.

Thus concluded Mr. Serjeant *Pengelly's* admirable and full Answer to the Earl's Defence; who was seconded by Mr. *Lutwyche*, upon the same Head. I may venture to say, *replied this judicious Gentleman*, that as the Earl was unfortunate to bring so heavy a *Charge* upon himself, he has still been more unfortunate in his Defence; and some of the Charges upon him, he has endeavoured to evade, by such Excuses and Arguments, as have made even his Defence Criminal.

As to his Lordship's making it a Question, whether he took the *Oath* directed by the *Statute*, &c. This was so surprizing to all that heard it, and the Report of it raised such Indignation, that it might have been expected, he would have drawn a Veil over this Part of the Case, and have taken Care, that it should not be mention'd again; but the Earl has thought fit to bring this Point into Dispute in his Defence; and he does not even yet fully own, that he took the *Oath*. It is a dangerous Practice for any one to make a Shew of taking an *Oath*; and yet by some nice Distinctions, endeavour to persuade himself, or others, that he is not sworn: But I shall have the Charity for the Noble Lord to believe, that

that he was sworn as the Statute required, and that he did not prevaricate, when he performed this Solemn Act.

As to his Lordship's *selling Offices*, the Ld. Ch. Just. Coke, in his *Third Institutes*, p. 145. places this Offence under the Head of *Bribery*, where he thus states the Definition of that heinous Crime. --- *When any Man, in a Judicial Place, takes any Fee or Pension, Robe or Livery, Gift, Reward, or Brokage of any Person that hath to do before him any Way, for doing his Office, &c.* And in his Comment upon this Definition, he takes Notice, that it is not confined to taking Money, where a Suit is depending; but also, where any in a Judicial Place, doth any Thing for Gift, or Reward, by Virtue or Colour of his Office, tho' there be no Suit at all depending.

For Example, (says he) *if the Lord Treasurer, for any Gift or Brokage, shall make any Customer, Controller, or any Officer or Minister of the King, this is Bribery: For he ought to take nothing in that Case, by the Statute of 12 R. II.*

The Impeached Lord has, I think, advanced a very dangerous Position upon this Point. He is pleased to say, The Publick has nothing to do about any Thing, but whether the Officer be a good Officer; that if he be so, the Publick is not hurt, tho' he gives the Chancellor Money for his Place. This is very extraordinary, and the same Argument would prove, that it is lawful for him to take Money from every Judge, that comes into *Westminster-Hall*. The

The Impeached Lord has said, he thinks it hard, that *Dormer's* Miscarriages should be charged upon him, that this Affair might have happened in any other Chancellor's Time, and not his Fault. But had this unfortunate Peer done what became him, in his high Station upon the failure of this Master, the Misfortune upon the Office would not any ways have been laid to his Charge. If a fair, plain and open Method had been taken for enquiring into, and Stating the Debt due to the *Suitors*, and the Account of *Dormer's* Effects to satisfy it, there could have been no Danger to the Chancellor, whatever the Deficiency had been; but the Truth was, the *Earl* could not part with those vast and exorbitant Prices, to which he had at that Time, raised the Places of Masters; he found the Sweet of that Gain, and was willing to run some Hazard for it. The *Earl*, after all his Excuses is pleased to say, if he had taken the Accompts, it would have signified nothing, unless he had gone farther: But if he never begun, he could never bring any Thing to Perfection; and in his Answer he confesses, it was necessary to have the Accompts in Order, to make Regulations, tho' it is to be fear'd, he never intended to reduce it to Practice. For among the various Accusations produced against the *Earl*, is not a Crime of the most gross Male-Administration, to find him endeavouring to deceive his Majesty in Council, by persuading the Masters to make false Representations of their Circumstances, by a Subscription to their Accompts,
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and by assisting one another, to make an Appearance of Ability. This was the said Conclusion of this long Scene of Iniquity. As to the *Charities* of this Noble Lord, I beg Leave to say, that it is a great Addition to the Merit of *Charity* to have it kept *private*, it was the more extraordinary these *Charities* should be now publish'd; because they are not any ways Material to the Questions in Debate. Here are plain Facts charged and proved; and if in a Case of this Kind, these *Charities* are to wipe off the *Charge*; it is a Kind of *Commutation*, that has not been before heard of.

The Man who would be the most meritoriously Charitable, should first be Just. The *Equitable Earl* should have first considered the Widows and Orphans he had injured as *Suitors*; he should first have made Satisfaction to them, and then have offered his Gifts.

The Case, concluded Mr. *Luttrell*, is founded on Corruption, and a Series of Fraud to support it: The People had long murmur'd at it; but the Grievance increased at last to such an intolerable Degree, that it became a National Concern; and there was an unavoidable Necessity of a Parliamentary Prosecution. There needs no Oratory to aggravate his Crimes, but the Cries of Widows and Orphans, will have the most persuasive Eloquence; and as they have Justice on their Side, they will have Weight with your Lordships. The *Commons* hope they have done their Duty, and hope your *Lords* will give such Judgment, as will be consistent with your great, and well known, Honour and Justice. Mr.

Mr. Serjt. *Pengelly*, then desired to call a Witness or two, first, to defend the Character of Mr. *Thomas Bennet*, and next to clear up the Affair of Mr. *Lucas's* proffering 6000 *l.* for a *Master's* Place. The several Persons call'd, being sworn, and given their Evidence in these particulars. Mr. *Plummer* thus observ'd upon the whole.

The Earl Impeached, says he, hath Principally insisted on *Two* Things; the One is taking, for a *Master's* Place, a *less* Sum when a *greater* was offered; from this avowing his Innocence, and inferring, that he hath not made corrupt Advantages, to raise his own Fortune. The second Thing he lays great Weight upon is, that he did *Call* for the Accompts of the Masters, notwithstanding the 500 *l.* a-piece was paid in. It does not appear, that any of the present Masters knew any thing of this; and I leave it therefore to your Lordships Consideration, whether, if the Earl of *Macclesfield* had been in Earnest, he would not have had a *Return* of the Accompts he call'd for. Now when these Two Points are made plainer against him, than they were when he was first charged with them, (thro' Mr. *Lucas's* Caution in parting with his Money, which has been fully cleared up; and that no Accompt of the *Masters*, tho' call'd for, was ever given in) altho' the Earl seems to say, the *Sting* of the *Impeachment* is taken out, yet it is plain, *every part of the Charge in full Force*, still remains; and it cannot be doubted, but that your Lordships will give such

such Judgment against him, as is both *Just* and *Legal*.

Then the Managers and the Counsel withdrew, and the Lords, (in Order to weigh every thing in their unerring Scales of Equity) Adjourned for Three Days, *viz.* from *Friday* to *Tuesday*.

Thus ended the Tenth Day.

Tuesday 25th May 1725. The Lord Chief Justice *King*, acquainting the Managers, that their Lordships had agreed, the following Question should be severally put; it was accordingly first Proposed by him, *viz.*

Robert Lord Walpole, ---- Is *Thomas*, Earl of *Macclesfield*, guilty of High Crimes and Misdemeanours charged upon him, by the Impeachment of the House of Commons, or not Guilty, upon your Honour?

To which that noble Peer answered, *Guilty upon my Honour*; and was therein followed, by the United Voices of *Ninety Two* other Lords; not one answering in the *Negative*. Upon which Unanimous, and most Honourable Vote, the House Adjourned 'till the next Day; when on *Wednesday 26 May, 1725*, Proclamation being made, and the Gentleman-Usher of the *Black-Rod*, commanded to call in the Earl of *Macclesfield*; the Speaker acquainting him, that the Lords had unanimously found him *Guilty* of *High Crimes* and *Misdemeanors*. His Lordship then Addressing to the whole House, thus delivered himself;--

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“ I am persuaded, that if your Lordships
 “ knew what I *Suffer*, your Lordships would
 “ not have required this *Attendance* of me;
 “ the rather, as I did not intend to make any
 “ *Exceptions* in relation to the *Proceedings*, or
 “ give your Lordships any farther Trouble. I
 “ am now to expect your Lordships *Judgment*;
 “ and I hope, that you will be pleased to con-
 “ sider, that I have suffered no small Matter
 “ already in the Tryal, in the Expence I have
 “ been at; the Fatigue, and what I have suf-
 “ fered otherways, besides the cruel Distem-
 “ per, which this hath brought upon me. I
 “ have paid back 10,800 *l.* of the Money al-
 “ ready. I have lost my Office. I have un-
 “ dergone the Censure of both Houses of
 “ Parliament; which is in it self, a very
 “ severe Punishment. My Lords, the Defi-
 “ ciency of Mr. *Dormer*, doth sound large,
 “ 25,000 *l.* But my Lords, it was not through
 “ my fault, that the Deficiency happened;
 “ nor was that Matter put in by me; on the
 “ contrary, with much Difficulty, it is
 “ reduced by my Means, to Ten Thou-
 “ sand Pounds less, than otherwise it would
 “ have been. My Lords, all the Loss that can
 “ be sustain’d by any thing charged against me,
 “ is only that some of the Suitors might have
 “ had more for their Proportion, than they
 “ can do now out of Mr. *Dormer*’s Effects:
 “ his Debt came to about 47,000 *l.* his Ef-
 “ fects to about 13,000 *l.* which is about a
 “ fourth Part. I don’t find there is one Sui-
 “ tor.

“ tor hath made his Complaint, that he
 “ hath not received his Five Shillings in the
 “ Pound, &c.

Upon this Mr. *Onslow* remarked, that the Earl had mention'd some Particulars, proper for a *Defence*, but not to be moved in Arrest of Judgment. Which being submitted to the House; the Earl, with the utmost Resignation acquiesced, saying. --- *I leave my Self to your Lordship's Justice and Mercy; I am sure neither of them will be wanting, and I entirely submit.* Then requesting to be dismissed, on Account of the very great Pain he was in: The Earl, as also the Managers, were directed to withdraw. And the Lords proceeding to consider, what Judgment they should give; afterwards Adjourned.

Thus ended the Twelfth Day.

Thursday 27th May, 1725, The Lords sent a Message to the Commons, that they were ready to give Judgment against the Earl of Macclesfield. Upon which the Commons, with their Speaker, attending at the Lords Bar, the Lord Chief Justice King, ordered the Earl to be brought forth; who, after low Obeisances made, kneeled until he was acquainted he might rise. Then the Speaker of the House of Commons demanding in their Name, the said Judgment against the Earl; it was by the Ld. Ch. Just. King, pronounced in the Words following;

Thomas *Earl of Macclesfield*, the Lords have unanimously found you Guilty of High Crimes and Misdemeanors, charged on you by the Impeachment of the House of Commons, and do now according to Law, adjudge, That you be fined in the Sum of Thirty Thousand Pounds, unto our Sovereign Lord the King; and that you shall be Imprisoned in the Tower of London, and there kept in safe Custody, until you shall pay the said Fine.

Then the Speaker with the Commons withdrew. The Earl was taken from the Bar, and the Gentleman Usher of the *Black-Rod*, was ordered to Convey him to the Tower, to be kept in safe Custody there, until he had paid the said Fine.

After which the House adjourned for Four Days, to Monday 31. May 1725.

The Earl, after a short Confinement in the Tower, paid his Fine, and was enlarged.

Thus

Thus have I gone through a Process, which, as it was *opened* with a most judicious *Exordium*, by Sir George Oxenden, I shall, with all due Deference and Justice, to that learned Gentleman's Character, close it in his own Words:

Happy had it been for this unfortunate Person, happy for the Widow and Fatherless, had he Copied after the Example of his renowned Predecessors, in their Wise and upright Distribution of Justice, as well as flown to their eminent Names for Protection, in the illegal Practices, whereof he has been found *Guilty*! To what a low Ebb must the Virtue and Reputation of this Nation be reduced, if Impunity shall justify Offences; if Bribery shall receive a Patronage from great Examples, and the basest Actions be adorned with the same Lustre and Honour, which are only due to the most Virtuous.

But when the *Commons* considered the High Station, in which this noble Lord was placed the many signal Marks of his Majesty's Favour and Magnificence bestowed upon him; the notorious Breach and Violation of his Oath; and of the several great Trusts reposed in him; When they have found him prostituting and abusing the Authority and Dignity of the Crown, trampling upon the Laws and Statutes of the Realm, destroying and confounding the Rights and Properties of divers
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of his Majesty's Subjects; the *Commons* could not sit still, and see this great Offender Triumph in the Luxury of unpunished Crimes, without using their best and most effectual Endeavours to bring him to Punishment, and to make him an *Example* of the *Justice* of the *Present Age*, a *Warning* and a *Terror* to *Times* to come.

F I N I S.

